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Possible Implications of the Constitutional Treaty for the EU Foreign and Security Policy – a Danish Perspective.

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The small states do not represent a coherent group in the EU. A comparison between Ireland and Denmark provides but one example. The two countries share similar views on a range of issues like the role of the UN and human rights. Both countries have a special position on EU defence cooperation. However, the two countries have a fundamentally different approach to the use of force. The reason behind the formulation of the Danish opt-out on defence in 1993 was the fear that EU-cooperation in the field would develop into a ‘European Army’ which could undermine NATO. The reason was not a strong pacifist streak in Denmark.

In the following, Danish views on proposals in the Convention on CFSP and ESDP will be presented. In a way such a presentation is outdated as the proposals have already been modified by the Italian Presidency, and are likely to be further modified by current talks between Germany, the United Kingdom and France on ESDP. This underlines the fact that EU foreign policy is more about global developments than treaty language.

Comments on the proposals by the Convention will be supplementary to the comments made by Daniel Keohane, which are comments I fully support.¹

CFSP

Denmark² supports the extension of QMV, but the foreign policy should remain intergovernmental. The EU cannot impose a certain foreign policy on a Member State, but no Member State should prevent the others from pursuing a common foreign policy. It is not surprising that Denmark supports a strengthened CFSP. In a small state such as Denmark, which has been a member of the EU since 1973, it has almost become a reflex when confronted with new foreign policy issues always to consider the view of salient EU partners (larger Member States and/or like minded Member States), and assess whether a common policy line is feasible. On a host of everyday foreign policy issues, the smaller states are arguably dependent on the European partners who actually have a policy or opinion on the matter.

Denmark also supports the merging of the two posts of the High Representative (Solana) and the Commissioner on External Relations (Patten) in order to make the CFSP more coherent and effective. Being a small state Denmark cannot afford the ‘luxury’ of having contradicting foreign policies in different fields, and the same goes for the EU as the CFSP is not backed up by strong capabilities. An improvement could be the establishment of a Diplomatic Service which would allow the EU to spend less time on forming common analysis and more time on agreeing on a common response to the problem at hand.

¹ Daniel Keohane’s paper to the workshop, *Possible Implications of the Constitutional Treaty for the EU Foreign and Security Policy – An Irish Perspective*.

² For the Danish position on the Convention’s proposals, see “The Intergovernmental Conference 2003 – The Danish Government’s Position Paper”, September 2003, [<http://www.um.dk/cgi-bin/dyn3nt/dyn3.exe?prog=show&pageid=308&postid=57>].

Based on its recent experience of holding the EU Presidency, Denmark has been supportive of a permanent Chair of the European Council as well as the Foreign Affairs Council, while she has her reservations on team presidencies. In both cases continuity should allow for more efficient Council deliberations internally and high-level representation externally.

ESDP

Denmark has an opt-out on defence cooperation according to which Denmark does not take part in decisions and actions which have defence implications. The Government has stated clearly that the opt-out is not in Denmark's interest. As the Government has ruled out a Big Bang referendum – on the new Constitutional Treaty as well as all three opt-outs – the opt-out on defence will be put to a referendum separately. No date has been set for this referendum.

Due to the opt-out, Denmark has only expressed some general views on the ESDP at the IGC. In general, Denmark supports a strengthening of EU's military capabilities. For practical reasons this should be done without duplicating existing structures, i.e. NATO. Denmark is open towards structured cooperation, as long as it is based on transparency and openness.

In the following I will present some comments on the three main issues on ESDP: structured cooperation, EU military headquarters and mutual defence. I will also touch on the issue of the proposed solidarity clause, which is linked to internal security rather than external security.

Structured cooperation

As stated in Daniel Keohane's paper it is unclear – even after the Presidency's amendment proposals – what the rules should be for structured cooperation. The lack of clarity allows for different readings on the very purpose of structured cooperation. The purpose of introducing flexibility could either be to allow for ad hoc coalitions *inside* the EU or to speed up the development of capabilities. If the main purpose is ad hoc coalitions inside an EU framework, the link between the group of Member States participating in structured cooperation and the EU25 is likely to be weak. The German-French proposal in the Convention and the proposal by Germany, France, Belgium and Luxembourg on April 29th, 2003 mentions a defence union inside the EU consisting of Member States who wish to move at a higher speed of integration without having to wait for the consent of EU25. The British proposal in the Convention also calls for flexibility, but the underlying objective is for the avant-garde to move ahead with developing capabilities in order to act as a stimulus to EU25. A strong link between the avant-garde group and EU25 is a precondition if structured cooperation is to inspire the other Member States to do more in order to catch up. A weak link is likely to divide the EU into an A- and B-team.

The challenge is to square the circle. On one hand structured cooperation should not be made meaningless by setting the requirements so low that there is no added value. On the other hand cooperation should not be turned into a closed club with little connection to the EU as a whole.

EU Military Headquarters

Another issue which is not directly linked to the IGC, but has been dealt with simultaneously, is whether the EU should be capable of performing its own operational planning. Sceptic voices were

raised that the main purpose of structured cooperation was to allow a core group of countries to move ahead with plans like the military headquarters in Tervuren proposed by Germany, France, Belgium and Luxembourg in April 2003.

There now seems to be a compromise between Germany, UK and France to set up a planning cell in charge of autonomous EU-operations. There may also now be a good argument for setting up such a planning capability. The problem has always been to explain that the EU needed its own planning capability, when Berlin plus provided the EU with permanent access to NATO's planning capabilities in SHAPE. Therefore, the proposal for EU planning always appeared to be 'unnecessary duplication'.

But if a division of labour between the EU and NATO should develop, it might turn out that NATO's SHAPE would not be well suited for planning the kind of operations that the EU wanted to lead. In that case there could be a need for 'constructive duplication', where the EU could do its own planning for autonomous operations. Some kind of geographic division of labour might be developing. Ever since St. Malo in 1998 the United Kingdom and France have emphasized the need for the EU to play an active role in African conflict prevention and crisis management. This was underlined in the declaration from the Franco-British summit on November 24th, where the two countries proposed the EU to create a rapid reaction force. According to the proposal the EU should be able to respond to requests from the United Nations in situations similar to Bunia, where the EU supplied an interim emergency force. The proposed 'headline goal' is that the EU should be able and willing to deploy an autonomous operation within 15 days with coherent battle-group sized forces, each comprising around 1500 troops, with appropriate transport and sustainability. These forces should have the capacity to operate under a Chapter VII mandate. If a division of labour is to develop between EU and NATO – in this case a geographic division of labour – there are arguments in favour of developing EU military planning for autonomous operations.

Smaller states may also favour an EU planning cell to the present system, where only the big countries have suitable national headquarters which are able to plan autonomous EU operations. Many smaller states may prefer to participate in an EU Planning Cell rather than being seconded on an ad hoc basis to national headquarters in one of the big countries.

Eventually, the Tervuren-proposal was put forward at a time when disagreement over Iraq was at its highest and the whole subject has therefore become highly politicized.

Mutual Defence

On mutual defence Denmark shares the view of other Atlanticist countries that NATO provides an adequate defence guarantee. It is quite odd why the EU should need a mutual defence clause at a time where the threat of invasion is close to non-existing. The proposal by the Italian Presidency that NATO is de facto to implement the defence guarantee could have the advantage of sending a clear message that the EU is not to build its own integrated military structure. However, the problem of the position of the non-aligned countries and Cyprus remains.

Solidarity clause



The aim of the Convention was mainly to strengthen the EU's role in projecting stability. Eventually, the terrorist attacks on September 11th, 2001 placed the issue of protecting the EU civil population from terrorism at the forefront. The proposal on a solidarity clause is central in this respect. It has been stated that it is only a codification of already existing arrangements – that everybody would assist a neighbour or EU partner struck by terrorism. But the solidarity clause is innovative on two accounts: 1) it entails an obligation to assist and 2) it combines the use of civil and military resources.

It will require substantial planning if the EU is to fulfill its commitment. In practice that requires a decision within 12 hours on assistance which is likely to cover experts and equipment from a broad range of sectors such as the military, police, first responders, health system and intelligence. To coordinate assistance across sectors and across borders requires a high amount of planning and training. The Convention proposed setting up pools of specialized civilian and military units doing joint training and planning. One could also imagine civil-military units, for instance on bio terror with military experts, medical doctors, laboratory technicians as well as equipment (transport, laboratory, decontamination and field hospitals etc.)

The solidarity clause has won broad support, although Denmark may have a problem because of its defence opt-out. The Convention was very careful to avoid confusion with a mutual defence clause. But in a way this underlines the question: why should the EU do nothing to deter terrorist attacks and military attacks?

Conclusion

The Convention set out to define the EU's role in view of new security threats. Solana's security strategy defines the main threats to Europe's security as terrorism, proliferation of weapons of mass destruction, and failed states. Is the EU going to use its military tool in order to deal with those threats? The overall answer is that the military tool is not going to have a prominent role – especially not in dealing with terrorism and WMD. The EU is to continue emphasizing having a full tool box consisting of diplomacy, economic inducements and sanctions, intelligence and police cooperation and the military tool. In dealing with terrorism and WMD the use of force will remain a last resort. Failed states which represent a dangerous nexus together with terrorism and WMD might be an area where the EU is willing and able to use its military tool in order to stabilize a failing state or post-conflict state. Solana's security strategy calls for the EU as a whole to “develop a strategic culture that fosters early, rapid, and when necessary, robust intervention.” This is a ‘security culture’ which for the time being is more likely to find expression through the stabilization of the new neighbourhood rather than military attacks on terrorist networks or nuclear sites in rogue states.

France always talked about the need for Europe to develop its own defence identity. Maybe this is now finally happening, but it is not the identity of a military alliance, but rather an identity being formed by the very nature of EU cooperation. The EU, more than any other organisation or federal state, symbolizes the erosion of borders and erosion of distinctions between internal and external security as well as the distinction between military and civil means. The EU is likely to strengthen further its ‘tool box approach’ to security where the military tool is only one but many tools.