

# ESDP AFTER LISBON: MORE COHERENT AND CAPABLE?

The Treaty of Lisbon, if ratified, comprises a series of innovations designed to increase the coherence and capabilities of the EU as a security actor. Besides several institutional changes, there are also new substantive concepts, such as the protocol on “permanent structured cooperation”. Moreover, security cooperation is being relabeled. It will be known no longer as the “European” but as the “Common Security and Defense Policy” (CSDP), which signifies a new level of ambition. However, major characteristics remain unchanged, and the impact of the reforms may be rather limited.



*Informal meeting of the EU ministers of defense in Wiesbaden, 1–2 March 2007* AA / Andrea Bienert

On 13 December 2007, European leaders signed the Lisbon Treaty or Reform Treaty, which amends the current EU and EC treaties. The key objectives of this treaty are to render the enlarged EU more effective and to increase its transparency and democratic legitimacy. It contains far-reaching institutional reforms and innovations, many of which go back to the rejected Constitutional Treaty. If it is ratified by all EU member states according to schedule, the Lisbon Treaty will come into force on 1 January 2009. While it lacks the shining vocabulary and references to EU symbols that have characterized the Constitutional Treaty, it is expected to put the EU, which has grown from 12 to 27 member states since 1994, on a more solid foundation and is bound to mark a milestone in the process of European integration.

The Lisbon Treaty affects the area of European Security and Defence Policy (ESDP) in two ways. First, general harmonization of the overall institutional framework should facilitate relations between the Council and the Commission with respect to crisis management issues. Second, several articles in the treaty are intended to strengthen Europe’s role in the world directly through the improvement of the Common Foreign and Security Policy (CFSP) and its subordinated area of ESDP. In the following, the continuities and changes of the Lisbon Treaty relating to ESDP will be examined, with a view to assessing the significance of the document for this particular policy field.

### **Intergovernmentalism continued**

A key feature of CFSP/ESDP that will not change with the Lisbon Treaty is its inter-

governmental character. The principle of unanimity remains a cornerstone of security and defense cooperation in the EU. While Qualified Majority Voting applies in some cases for CFSP, it is excluded altogether when it comes to decisions that have military or defense implications. Any modification of this provision is explicitly excluded. The Lisbon Treaty also states that “national security remains the sole responsibility of each Member State.”

Although the European Community and the three-pillar structure are being abolished, CFSP/ESDP will remain a special legal area with individual provisions. However, the EU will become a legal entity. This creates new options for external policies: The EU can join international organizations and conventions. Thus, the EU can back up its normative approaches, such as “effective multilateralism”, by legalizing agreements and relationships. The role of the European Commission and the European Parliament continues to be very limited in ESDP. The Commission’s right to make proposals in foreign and security policy will be transferred to the new post of the High Representative of the Union for Foreign Affairs and Security Policy (see below). Hence, the Commission’s collective influence could even decrease with the Lisbon Treaty.

### **Institutional innovations**

The Lisbon Treaty contains a series of changes designed to render the EU a more coherent actor in the field of CFSP/ESDP. One of the most important institutional

innovations concerns the creation of the post of a High Representative of the Union for Foreign Affairs and Security Policy. This post aims to allow EU external policies to be formulated and implemented more coherently and to provide Europe with a visible and continuous representative. It integrates the positions and functions of the EU Commissioner for External Relations and the High Representative for the Common Foreign and Security Policy, which are in turn abolished. Acting as vice-president of the Commission and chairing the Foreign Affairs Council, the task of the High Representative is to assure effective inter-institutional coordination between Community elements of EU external relations and CFSP.

Yet, the challenges are manifold. Managing the change of organizational cultures of the Commission and the Council towards effective integration or at least cooperation in the area of security and defense will be a formidable task. Also, the High Representative will have to establish a powerful position vis-à-vis both the Commission and the Council if he or she wants to avoid becoming the servant of two masters. Finally, the position of the High Representative vis-à-vis the “President of the European Council”, another new institution created by the Lisbon Treaty, remains undefined. The President is equally charged with representing the EU. By chairing the Council, he or she will have a considerable impact on the agenda of the High Representative. It seems that Henry Kissinger’s famous call for a single EU phone number has still not been met.

The European External Action Service (EEAS) marks a further novelty. Designed to support the High Representative, the EEAS will be recruited from national civil servants, the Council Secretariat, and the Commission. As a new body with de-facto capacities that remain unspecified so far, it may have to struggle for its place in the EU institutional setting and vis-à-vis the representations of the member states. Furthermore, the role of the military within the EEAS remains open. Their expertise will be needed to enable the EEAS dealing with military and defense questions in due course.

**ESDP-related changes**

The Lisbon Treaty confirms the commitment of the EU to the progressive framing of a common defense policy. Compared to the existing EU treaty, ESDP receives an ex-

The Treaty of Lisbon: Key changes relating to ESDP		
Article	Subject	Content
9E, 13A, 14, 19	High Representative for Foreign Affairs and Security Policy	New provision
27	Specific provisions for implementing the Common Security and Defence Policy	Significant changes
188R	Solidarity clause	New provision
28A 7	Mutual defense clause	New provision
28A-1, 28B	Petersberg Tasks	Modification
28A 5, 28C	Implementation of a task by a group of member states	New provision
28D	European Defence Agency	New provision
27-6, 31, Protocol PSCoop	Permanent structured cooperation	New provision

tended presence in the new text. The aim of ESDP is defined as providing the EU with an operational capacity drawing on civilian and military assets. As for the operational scope of ESDP, the treaty for the first time includes the extended list of Petersberg Tasks. In addition to the traditional spectrum of tasks that includes humanitarian, rescue, peacekeeping, and crisis management (including peacemaking) operations, it refers to joint disarmament operations, military advice and assistance tasks, and the fight against terrorism.

The treaty also refers for the first time to the European Defence Agency (EDA), which was set up by the EU member states in 2004. Furthermore, it introduces a solidarity clause and a mutual defense clause. The former obliges the member states to support each other in case of a terrorist attack or a disaster. The mutual defense clause compels them to offer aid and assistance if one of them is victim of an armed aggression on its territory. However, this clause explicitly does not affect the national defense policies of member states, their neutrality, or alliances. It confirms NATO as the basis for the collective defense of its members.

Both clauses together cover the full spectrum of scenarios that may require EU member states to provide mutual assistance. While they leave the decision on the kind of assistance to the member states, they offer a legal formula for the use of civilian and military assets within the EU territory at the request of an individual member state and with the consent of the EU.

**Permanent structured cooperation**

One of the most debated ESDP-related novelties in the Lisbon Treaty is the proto-

col of “Permanent Structured Cooperation” (PSCoop). While some have decried it as a potential duplication of NATO endeavors, others have praised it as a breakthrough towards more and better EU capabilities. Basically, the concept foresees the possibility of closer cooperation for those member states that are willing and able to undertake greater efforts in the realm of military capabilities.

However, PSCoop is not about operations. It contains no binding commitment to deploy troops or towards mutual defense. Nor can participating member states mount any ESDP mission without the unanimous approval of the Council. Rather, the objective of PSCoop is to enhance the EU’s operational capabilities through collaborative efforts. Yet, many of the provisions on PSCoop are still vague. This is especially true for the kind of cooperation that can come about under PSCoop – in terms of content, with regard to outcomes, and in terms of who will or can participate.

With regard to participation, PSCoop will operate on an opt-in basis. Accordingly, there is no obligation for member states to take part. It is open to those member states that meet two criteria: First, their willingness “to proceed more intensively” to develop their defense capacities through the development of their national contributions and participation in the respective multilateral endeavors; and second, their capacity to supply capabilities, either at national level or as a component of multinational force groups, structured at a tactical level as a battle group.

Concerning the first criterion, its main deficit is the lack of any benchmark. As for the second criterion, all it asks for is some marginal participation in an EU Battlegroup

(EU BG). In fact, PSCoop was one of the driving forces behind the participation in EU BGs for many smaller states, as they did not want to be perceived as second-class members. However, they did not want to engage in costly capability development for EU BGs either. By eventually succeeding in watering down EU BG entry criteria, they also ended up blurring the idea of PSCoop. What was originally designed as an exclusive club has lost much of its distinctive character – which is bound to have negative effects on the quality of PSCoop.

The areas for cooperation are outlined in Article 2 (see box). However, this section does not specify projects or other substantial elements of cooperation. Currently, the EU governments seem to have no precise idea on how to utilize PSCoop. Basically, two options can be imagined: to integrate existing multilateral projects into the framework of PSCoop, or to establish new ones. With regard to the former, a potential initiative is the so-called Lol (Letter of Intent) Agreement among the major European arms-producing countries. A further example is the Movement Coordination Centre Europe. It coordinates the use of airlift, sealift, and land movement assets among the participating states – some of which are not EU members, however.

The advantage of starting with such existing projects is that the partners know each other and are accustomed to a certain routine and culture of cooperation. But under which circumstances would these projects be open for participation by new members? States that already participate in such frameworks are likely to be reluctant regarding unconditioned enlargement. Especially if new members are integrated for political rather than substantive reasons, cooperation would be obstructed rather than intensified, leading to less than optimal effectiveness. Although PSCoop can be set up by qualified majority, it is hard to imagine that such a move would actually be undertaken against the explicit opposition of other member states.

A final aspect of PSCoop requiring clarification is the role of the EDA. While the Lisbon Treaty assigns it to tasks it to “contribute to the regular assessment of participating Member States’ contributions with regard to capabilities”, it fails to spell out how this ought to be done. Given that the member states make up its governing board, it will be interesting to see how EDA will proceed with this sensitive issue. Who will develop

Potential areas of permanent structured cooperation		
Article	Principal form or area of cooperation	More detailed options, if indicated in the protocol
2A	Ensure level of investment expenditure on defense equipment	
2B	Synchronization of national defense apparatuses	<ul style="list-style-type: none"> <li>• Harmonization in identifying requirements</li> <li>• Pooling or role specialization</li> <li>• Cooperation on training and logistics</li> </ul>
2C	Enhance the ability to commit forces, particularly through...	<ul style="list-style-type: none"> <li>• Enhancing availability, interoperability, flexibility, deployability</li> <li>• Identification of common objectives for commitment</li> <li>• Review of national decision-making procedures</li> </ul>
2D	Bi- or multinational cooperation to remedy shortfalls of the “capability development mechanism”	
2E	Joint equipment programs under EDA framework	

assessment criteria? Will they be listed and become auditable? If EDA is to emit recommendations, how can it make sure that member states take them into account? The issue seems even more complex since EDA and some member states pursue a capability-based approach to defense planning, whereas other member states continue to apply a threat-based one. This could generate assessment results that are not comparable.

### Lisbon’s limited relevance for ESDP

It is worth pointing out that ESDP has done remarkably well even without the Lisbon Treaty. When France and Britain at their summit in St. Malo in 1998 agreed that the EU ought to develop a European security and defense policy, few foresaw its dynamic and rapid evolution. Since its operational start in 2003, the EU has conducted about 20 peace missions around the globe. Necessary structures like the Political and Security Committee, the EU Military Committee, and the EU Military Staff have been set up in Brussels, and the collective ability to respond to international crises has been improved.

Whether or not ESDP continues to be a success story will depend not so much on the Lisbon Treaty provisions than on the political will of member states to implement joint responses to security challenges. The renaming of the “European Security and Defence Policy” as the “Common Security and Defence Policy” (CSDP) in the Lisbon Treaty sets out a new level of ambition in this field. Still, only practical experience will reveal the extent to which the changes and innovations outlined above will actually improve the performance of the EU as a security actor. The Lisbon Treaty is unlikely to revolutionize ESDP. Overall, the potential

of the new features seems too limited to overcome the structural characteristics of ESDP. Here, the principle of unanimity represents the cornerstone. Moreover, the Lisbon Treaty provides little guidance on how to deal with one of the major challenges ESDP is confronted with, i.e., the chronic shortage of operational capabilities.

In the context of the current ratification process of the Lisbon Treaty, ESDP is likely to be a minor issue. However, PSCoop may set off some cumbersome domestic debates. If some member states get the impression that PSCoop may lead into a huge bureaucratic organization or may touch upon their vital national interests, they may delay or even set off ratification. This is especially true for Britain, where the foreign and security policy aspects of the Lisbon Treaty will be examined with particular scrutiny. Under such circumstances, the upcoming French EU Presidency would be well advised to abstain from proposing any spectacular ideas regarding PSCoop. Still, EU capitals should use the ratification period to define their potential contribution, bearing in mind that these should be a) permanent and b) structured instead of ad hoc and vague.

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