

The Lisbon Treaty Evaluated: Impact and Consequences

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Much Ado About Nothing: EU Defence Policy after the Lisbon Treaty

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Introduction

If there is one thing that political science has taught us over the last decade, it is the importance of institutions, which both constrain the actors within them and can become powerful actors in their own right.

Nowhere is the notion that 'institutions matter' more strongly subscribed to than in Europe. Here, it seems obvious not only that institutions have helped prevent war in a continent traditionally plagued by conflict, but also that they represent the most effective means of dealing with the vicissitudes of broader international politics.

Such thinking has much to commend it. The European Union has played a crucial role in transforming relations between its members (albeit that NATO is too often overlooked in self-congratulatory European explanations for the continent's stability). Meanwhile, the power of attraction it exerts has helped tame relations both with and between those of its neighbours that aspire to membership within it (albeit that its influence further afield has been far more limited).

Little wonder, then, that the latest revision to the EU's founding texts - the Lisbon Treaty - has generated so much breathless commentary. Nor that the primary target of this excitement have been its provisions for foreign and security policy. After all, 25 of the 62 amendments it ushers in apply to treaty provisions on foreign and security policies.¹ And the Common Security and Defence Policy (CSDP) not only merits more space than the European Security and Defence Policy (ESDP) that preceded it, but has had its remit expanded to include joint disarmament operations, post-conflict stabilization and (as if these were not taxing enough of themselves) the 'fight against terrorism'.

As in all things connected with European integration, analyses of these changes range from the clinically depressed to the massively

¹ Unlike the Constitutional Treaty, which would have replaced all existing treaties with a single new one, the Lisbon Treaty remained faithful to the method adopted by previous Intergovernmental Conferences in merely amending existing treaties. It thus amends both the Treaty on European Union and the Treaty Establishing the European Community (TEC), which it renames the Treaty on the Functioning of the European Union (TFEU).

optimistic. A recent Financial Times article remarked on the absence of evidence that Lisbon has improved the Union's ability to act as a major international power.² Numerous others, in contrast, have been quick to voice their conviction that the new provisions will make the EU a more effective international security actor.

In what follows, I adhere largely to the former line, arguing that the Lisbon Treaty will not exert a noticeable impact upon the effectiveness of CSDP. Certainly, it addresses some important problems that have long bedeviled EU security policies - though even here its success is far from guaranteed. More fundamentally, the treaty does precious little to address perhaps the fundamental challenge confronting CSDP: the reluctance of member states to take their responsibilities seriously. Given this, a narrow focus on institutions and institutional evolution at the EU level not only largely misses the point, but may also be actively counterproductive. By shifting attention from the national sources of the EU's lackluster performance as an international actor, it encourages member states to utilize European level initiatives as a means of avoiding, rather than meeting, their international responsibilities.

Lisbon and ESDP

The key security policy ambitions of the Lisbon treaty can be summarized in two words: 'coherence' and 'capabilities.' In this respect, policy makers have at least managed to identify the two crucial problems confronting CSDP.

Coherence

Issues of coherence have been a perennial problem for the EU's dealings with the outside world. Certainly, it benefits from its ability to deploy numerous different tools in its external relations, ranging from

² David Gardner, 'EU Struggles to Project Itself as a world power,' [Financial Times](#) 19 September 2010.

trade to aid to military force.³ At the same time, however, the deployment of distinct policy instruments necessitates the mobilization of different policy actors using different decision-making procedures, which in turn can lead to friction and incoherence. It has become something of a truism in the literature to remark on the internecine rivalries that exist between different institutions with a role in shaping EU foreign policy and their deleterious effects.⁴ Two senior officials intimately connected with ESDP have commented that the Union's reaction to a crisis can be driven 'more by institutional rivalry than by a truly result-oriented approach'.⁵ By way of example, conflict and inconsistency have dogged the Union's ongoing mission in Kosovo, not least because of the different policy instruments it has deployed.⁶

A central ambition of the Lisbon Treaty is to address such problems head on. In particular, it includes provisions intended to improve relations between the two key institutions involved in EU external policies – the Commission and the Council. Two innovations in particular are worthy of note in this regard – the creation of a new post of High Representative for Foreign and Security Policy (combining the old HR post with that of Vice-President of the European Commission), and the setting up of a European External Action service, intended to draw on expertise from within both the Council and the Commission.

Clearly, it is still too early to come to any definitive judgments regarding the new external relations machinery – indeed the External Action Service only became operational on 1 December 2010. Yet early indications suggest that the institutional frictions that have hamstrung EU action in the past are not about to be consigned to the past.

³ Solana, J. (2000). Improving the coherence and effectiveness of European Union action in the Field of Conflict Prevention: Report presented to the Nice European Council by the Secretary General/High Representative and the Commission. Brussels.

⁴ T Barber, "The Appointments of Herman Van Rompuy and Catherine Ashton," *JCMS: Journal of Common Market Studies* 48 (2010): 58.

⁵ Bruno Angelet and Ioannis Vrailas, "European Defence in the Wake of the Lisbon Treaty," *Egmont Papers*, no. 21 (2008): 6.

⁶ Steven Blockmans and R.A Wessels, "The European Union and Crisis Management," (The Hague: CLEER Working Paper, 2010), 19.

Member states have hardly led from the front. From the first it was clear that political expediency rather than any real desire to foster effectiveness would shape their attitudes towards implementing the treaty provisions. The choice of Catherine Ashton as first holder of the new High Representative post was clearly - whatever her merits or indeed eventual success in the post - based considerations of politics rather than on any real debate as to who was best qualified for what is undoubtedly a hugely challenging role.⁷

Moreover, the (unavoidable) ambiguity of a treaty that represented a fragile compromise between differing national preferences and priorities merely meant that conflicts avoided at the drafting stage could be fought out during implementation. Given that it is virtually impossible to divine from the text itself how responsibilities should be divided between institutions in the reformed system, little wonder these have mobilized to ensure the greatest possible influence in the new structures.⁸

The whole point of the External Action Service was to combine as much of EU foreign policy under one roof – and under the authority of the High Representative – as possible. Yet the European Commission, quick to see in this a challenge to its authority, moved first. President Barroso transferred two sections of DG External Relations – dealing with climate change talks and energy issues – to new DGs for climate change and energy - so keeping them outside the purview of the EAS. Neighbourhood policy was similarly entrusted to DG enlargement, whilst a cumbersome fudge over development policy raises the prospect of continued incoherence when EU attempts to deploy the full range of its instruments. The jostling of member states to ensure the placement of their nationals within the new systems suggests that merit will prove about as central as it did in the choice of High Representative. Meanwhile, the continued relevance of inter-institutional rivalries was revealed all too clearly by the

⁷ Barber, "The Appointments of Herman Van Rompuy and Catherine Ashton," 56, Brendan Donnelly, "Europe in the World: All Change or No Change in Foreign Policy after Lisbon?," *The International Spectator* 45, no. 2 (2010): 18-19.

⁸ Barber, "The Appointments of Herman Van Rompuy and Catherine Ashton," 59.

public grumbling of some governments at the decision by Ms Ashton to maintain her office within the Commission building.

Capabilities

Coherence has certainly been a serious a problem afflicting EU security policies, yet it is far from being the major one. This is widely acknowledged to be the problem of generating sufficient capabilities to allow the European Union to play the role to which it aspires. Anecdotal evidence of the problems caused by capabilities shortfalls are legion. To take but one example, it took months of squabbling between member states before EU forces were finally deployed to Chad in 2008, and this only once the Russians had agreed to provide four helicopters.

Such failings are not necessarily the result of under investment (although the deep cuts foreseen by all national defence budgets may well make this an issue too). In 2006 member states together spent the equivalent of 60% of the total US defence budget - almost quarter of global defence spending.

Rather, the problem is one of spending that fails to address the requirements of modern warfare. The latter is increasingly expeditionary and multinational in nature. Yet, although European Union member states have some half a million more men in arms than the US, around seventy per cent of their land forces cannot operate outside national territory. According to figures from 2007, only two member states (the UK and Ireland) had met the NATO target of being able to sustain eight percent of their ground forces on operations (Finland and Norway also had impressive records in terms of levels of deployment).⁹

Even those forces that exist and can be deployed cannot always work together effectively. Four European states use Chinooks, but with different configurations, meaning that spare parts are not interchangeable. As for communications, one senior NATO commander was moved to comment that :

⁹ International Institute for Strategic Studies, "European Military Capabilities: Building Armed Forces for Modern Operations," (London: IISS, 2008), 13.

*I had to have nine different systems sitting on my desk just to communicate with all my units [in Afghanistan]. All these different national systems are useless and it's unacceptable that we don't have a common operational network.'*¹⁰

Lisbon marks a break from previous versions of the EU treaties by squarely addressing the question of capabilities. In particular, a new mechanism by the name of 'Permanent Structured Cooperation' is intended to enable the Union to tackle capability deficits head on. A number of observers have emphasized its 'considerable promise for dealing effectively with the problem of inadequate and irrational defence spending by member states,'¹¹ in particular by allowing for the creation of 'pioneer groups' necessary for the creation of meaningful European defence capabilities absent the required political will on the part of all member states.¹²

Permanent Structured Cooperation is open to any member state that either enhances its defence capacities or possesses the capacity to supply combat forces. Uniquely amongst decisions with defence implications, it can be established by Qualified Majority Voting (QMV), thereby preventing blockage by laggards. Perhaps most interestingly, any member of any such group that subsequently fails to live up to its commitments can be suspended on the basis of a decision by a qualified majority of other participants.

The European Defence Agency (EDA) is crucial here. Under the new treaty, it is meant to help in assessing member state contributions in the light of the criteria created for pioneer groups. It is based on these assessments that the Council can decide to suspend participants for failing to respect the criteria established. As this were not enough, the EDA is also

¹⁰ Ibid., 22.

¹¹ Angelet and Vrailas, "European Defence in the Wake of the Lisbon Treaty," 4.

¹² Witney, "Re-Energising Europe's Security and Defence Policy."

charged with 'identifying, and, if necessary, implementing any useful measure...improving the effectiveness of military expenditure.'

If it is too early to assess the effectiveness of measures designed to enhance coherence, it is all the more so for those aimed at improving capabilities - these have, to date, not been utilized. Yet there are grounds for legitimate doubts about the ability of the new provisions to achieve their stated objectives. For one thing, it is not at all clear what the benchmarks to be used for assessing performance actually are. Will member states qualify on the basis of their willingness to cooperate with partners, their progress in developing capabilities, or their readiness to deploy these capabilities on missions?¹³ Clearly this choice will do much to determine how effective the Union is in practice at confronting security challenges.

More fundamentally, however, the single greatest flaw in the new treaty provisions concerning both capabilities and coherence is their failure to take into account the - in many cases debilitating - centrality of all twenty seven member states to all major decisions relating to CSDP.

The Perennial Problem: Member States

Nowhere is the role of member states more pronounced than in defence policy. ESDP and CFSP were always characterized by strict intergovernmentalism, with a highly limited role for community institutions. For all the fact that the treaty of Lisbon formally removes the pillar structure introduced by the Maastricht Treaty, that same system is in reality alive and well as far as the second pillar, and particularly defence, are concerned. Member states dominate decision making and are responsible for taking all major decisions on the basis of unanimity. Provisions for foreign security and defence policies remain within the TEU rather than being grouped with all other EU policies in the TFEU.

¹³ Ibid., 15.

As if this were not enough, the prerogatives of member states are restated *ad nauseam*. Largely at the insistence of the British Government (which declared itself satisfied with the defence provisions of the constitutional treaty then insisted on further changes when negotiations on the successor document commenced) Article 11(1) TEU stipulates that the 'common foreign and security policy is subject to specific rules and procedures.' On defence itself, Article 3a TEU states that the Union: 'shall respect [member states'] essential state functions, including enshrining the territorial integrity of the State, maintaining law and order and safeguarding national security'. It goes on, for good measure, to recapitulate that in 'particular, national security remains the sole responsibility of each Member State.'

Perhaps most strikingly, the so called mutual assistance clause (Art 42 TEU) effectively empties itself of all significance with the assertion that any obligation of assistance it entails 'shall not prejudice the specific character of the security and defence policy of certain member states,' adding that any such obligations must also be 'consistent with commitments under the North Atlantic Treaty Organization, which, for those states which are members of it, remains the foundation of their collective defence and the forum for its implementation.' So, non-NATO members need not feel bound to provide assistance, whilst members should use the Atlantic Alliance as the forum for any call for collective defence.

The Lisbon Treaty thus aims to enhance coherence and capabilities - but without in any way impinging upon the behaviour of the member states. Yet it is precisely this behaviour that has spawned the most severe problems in these areas.

It is because member states must reach unanimous accord on CSDP operations that these have largely been - where they have taken place at all - small scale. Profound divisions between national capitals - over the need for intervention in certain geographical areas and over the primacy to be accorded to military as opposed to 'softer' forms of power - mean that consensus is often elusive and action, consequently, limited. Whether or not the capabilities exist to facilitate rapid and effective EU action,

therefore, it is an open question as to whether member states would be able to agree on their deployment. Even states that do commit troops to missions often layer their contribution with restrictive caveats that severely limit their operational effectiveness.¹⁴

Above and beyond different attitudes towards the use of military force, member states are further divided by the thorny issue of the costs of such deployments. According to the principle of 'costs lie where they fall,' a system of perverse incentives means those member states willing to contribute forces for an EU mission also pick up the tab. The so called Athena mechanism makes provision for some 'common costs,' whereby all member states contribute towards around 10% of overall mission costs on the basis of a GDP scale. Yet not only does this leave contributors to pick up the bulk of the expenses, but it also renders certain member states still less anxious to see deployments occur. Germany in particular has become increasingly sensitive to the costs of missions in areas it does not consider to be a political priority.

Lisbon does little to change all this. All twenty seven member states must approve CSDP operations – which do not fall under the purview of Permanent Structured Cooperation. The treaty also maintains the prohibition on charging operations with military or defence implications to the EU budget (41(3) TEU). And whilst it includes a provision for a 'start up fund' for initial expenditures on CSDP missions, the fact that this will be made up of member state contributions means that pre-existing problems are replicated rather than resolved. Until they are resolved, however, money will remain yet another obstacle in the way of timely and effective EU action.

Of course any decision to deploy military force depends on the existence of adequate military means to deploy. As we have seen, the Lisbon treaty addresses squarely the need to enhance European military capabilities. Yet the control exercised by member states again provides reasons to doubt the effectiveness of its provisions.

¹⁴ Ibid., 145-147.

The idea of pioneer groups of states certainly makes sense. Huge disparities exist between member states in terms not only of spending on defence and capabilities (the UK and France between them account for over 40% of EU defence spending) but also of the differential willingness to invest in appropriate capabilities and deploy these. Yet the question then arises as to how these groups are constituted and who ensures they stick to their commitments.

Clearly, any pioneer group of states should be constituted on the basis of defence related criteria. Yet this is not always how member states see things. Perhaps most insidiously, those most anxious to press ahead with ESDP are not always those best equipped to do so. The so-called 'Chocolate summit' of April 2003, with its ambitious calls for a European Security Defence Union involved, alongside France, a member state at best hesitant about many ESDP interventions (Germany) and two of the lower spenders on defence as a proportion of GDP (Belgium 1.14%, Luxembourg 0.67%). When, in early, 2008 Pierre Lellouche, French UMP deputy and spokesman on defence policy published proposals for the creation of a defence 'G6' to take the lead in cooperation on defence matters,¹⁵ these excluded not only two of most active member states when it comes to force deployments (the Netherlands and Sweden).¹⁶ but several with a track record of deploying an above average number of troops (notably Austria, Finland and Ireland).¹⁷

There tends to be, in other words, something of a 'disconnect between public commitments to European military integration...and practical deployments of forces.'¹⁸ Yet ideological commitment to European integration is of little use when it comes to running operations, and says little or nothing about the willingness of a state to enhance its capabilities or deploy them. It is an open question as to whether the fact that Germany – with all its political and financial doubts about military

¹⁵ Pierre Lellouche, 'Huit Propositions Pour Donner À L'union Une Défense Commune ', *Le Figaro* (2008).

¹⁶ Witney, 'Re-Energising Europe's Security and Defence Policy'.

¹⁷ International Institute for Strategic Studies, 'European Military Capabilities: Building Armed Forces for Modern Operations'. pp. 13, 16.

¹⁸ Giegerich and Wallace, 'Not Such a Soft Power: The External Deployment', 164.

deployments - was at one point scheduled to participate in 8 different battlegroups was a cause for celebration or unease.¹⁹

The fundamental reason why European military spending is often inefficient is because of the way national governments choose to spend the money they allocate to defence. The treaty addresses this, albeit in a tentative fashion, by providing the European Defence Agency with an important, if improbable, oversight function. It is expected, *inter alia*, to monitor national defence budgets and to assess whether participants in pioneer groups under permanent structured cooperation are meeting the criteria they have set themselves.

The daunting scale of these tasks has moved some to compare the process of capabilities improvement with that whereby member states achieved monetary Union, and the role of the EDA within it to that of the European Commission in the single market.²⁰ The Agency should thus serve as a 'conscience' or 'catalyst' for the development of military capabilities for ESDP.²¹

Such optimistic analogies, however, are flawed. For one thing, neither the European Monetary Union (EMU) nor the single market provide grounds for optimism concerning the ability of EU institutions to shape member state behaviour. It was inadequate enforcement of the convergence criteria that allowed Greece to join the single currency on the basis of (at best) misleading fiscal data. And the successful flaunting by France and Germany in November 2003 of the terms of the Stability and Growth Pact bore eloquent testimony to the unwillingness of member states to punish those amongst their number who breach the rules of the game. As for the Commission, its role in policing the single market has itself come under sustained challenge from member states wiling to flaunt the rules and unwilling to provide it with the resources necessary for it to fulfill this task.

¹⁹ Jacoby and Jones, 'The EU Battle Groups in Sweden and the Czech Republic: What National Defense Reforms Tell Us About European Rapid Reaction Capabilities', 322.

²⁰ Angelet and Vrailas, 'European Defence in the Wake of the Lisbon Treaty,' 44-48.

²¹ International Institute for Strategic Studies, 'European Military Capabilities: Building Armed Forces for Modern Operations,' 28.

Yet compared to the EDA the Commission is impressive indeed. College members are at least nominally independent, whilst the EDA steering board is made up of 27 Defence Ministers (plus a non voting Commission representative). It in turn appoints the Chief Executive and two deputy Chief Executives. The Agency is thus prey to the whims of the national ministers that control it (and have notably, for several months, not managed to appoint a Chief Executive). It is thus hard to see it opting to suspend a participant in permanent structured cooperation, and harder still to see such a decision upheld by the Council.

As for effective monitoring of national defence spending, it is virtually inconceivable that member states will take the Agency's recommendations seriously. After all, even in apparently technical areas like the liberalization of the services sector, perceived intrusion by Community institutions has generated angry retaliation from national capitals. How much more angry would be the reaction of a state whose defence spending priorities are questioned? And this particularly in a time of recession, of savage cuts in defence spending across the Union, when 'rationalization' equates to redundancies. Already the siren voices are being raised, warning of desperate consequences if cuts are made.²²

The odds, then, are not good for a weak institution, lacking both material resources and legitimacy, and operating in arguably the most sensitive area of public policy, to really shape and change member state policies.

Conclusions: achieving limited ambitions

The Lisbon treaty accurately identified two of the crucial problems that have hamstrung the EU's effectiveness as an international actor. The solutions it proposes may conceivably focus the minds of the relevant actors on attempting to mitigate the most glaring problems of the past. Yet even this is far from certain. After all, the very process of implementing a treaty intended, in part, to overcome damaging inter-institutional rivalries

²² Nick Butler and Jeffrey Sterling, 'Defence Cuts will hit Britain's Industrial Capacity,' *Financial Times*, 30 September 2010.

has itself been profoundly shaped (it is as yet too early to say derailed) by those same rivalries.

And then there is the elephant in the room. Member states negotiate, agree, sign and (for the most part) ratify EU treaties. Little wonder, then, that these treaties tend to have little to say about the constraint that national capitals represent when it comes to enhancing the effectiveness of European integration.

At heart, the crucial constraint on CSDP is a need for political will: the will to spend enough on defence; the will to spend wisely, and the will to deploy the capabilities so acquired. Generating this will is not something that can be accomplished by a treaty. As the then FT Brussels bureau chief put it, 'The Lisbon Treaty, so EU leaders assure their publics, provides the instruments for...projecting the EU's influence more effectively across the globe. What the treaty does not contain, however, is that vital ingredient for success – political willpower'.²³

The above has argued that, whatever the institutional fixes created by the new treaty, it is unreasonable to expect them to alter the preferences of national governments in a policy sector as sensitive as defence. Ambitious rhetoric by policy makers and observers alike serves merely to raise expectations excessively, paving the way for subsequent complaints that the Union has failed.

In reality, given the jealousy with which governments, whatever the limited potential of their national armed forces, protect their control over defence, significant progress in terms of a more coordinated European response to capabilities shortfalls is unlikely. Whilst some claim that the current round of swingeing defence cuts provides a perfect setting for greater collaboration on research, manufacturing and purchasing of defence equipment, it is just as likely to increase the sensitivity of governments when it comes to the inevitable job cuts that such rationalization would imply.

²³ Barber, "The Appointments of Herman Van Rompuy and Catherine Ashton," 66.

Better, then, to start with more modest, achievable objectives as a first step towards greater interstate collaboration. And an obvious place to start is with better information sharing. The former head of the EDA has pointed out that member states are at liberty not to provide data to that organization, to the point where no objective information exists on who has contributed what to operations.²⁴ More pressingly, it seems sensible that member states coordinate when deciding on the cuts to impose on their armed forces. It would be too much to ask for them to defer to an institution like the EDA, but a useful first step would be to ensure that Defence Ministries inform their partners about planned cuts, in order that these can be coordinated as far as possible. A German-Swedish paper circulated to a meeting of Defence Ministers in December 2010 marked a useful first step in this regard, calling on member states to conduct, in the first half of 2011, reviews of their military capabilities in order to identify areas of possible co-operation. We could in principle at least aspire to some kind of Open Method of Coordination type system for defence spending – non-binding, and based on bench marking – rather than aspiring to first pillar type decision making. Even here, however, it should be noted that the absence of an institution of the stature of the European Commission capable of agenda setting and compliance monitoring could undermine even such limited hopes.

Reasonable ambitions are the best starting point. It is unlikely in the extreme that the EU will ever become the kind of high profile and effective international security actor that some seem to think it should be. Yet it would be wrong to attribute the blame for this to the Union itself. Rather, it is up to member states to step up to the plate in order that, collectively, they manage to achieve those things that none amongst them can manage individually. Debating institutions is all well and good. Yet this should not serve as an alibi for member states that are responsible for the major failings of EU security policies.

²⁴ Witney, "Re-Energising Europe's Security and Defence Policy," 16, 23.

All this matters because the European Union provides an obvious mechanism by which European states can attempt to enhance their ability to deploy military force. Their failure to date to do so has led not only to the relatively underdeveloped nature of EU security policies, but also contributed to a failure to live up to broader security responsibilities. For all the popularity of, and heavy pressure from, President Obama, member states in 2009 came up with only some 5,000 troops (of which 3,000 only on a temporary basis) to supplement the 26,000 already deployed in the NATO-led mission in Afghanistan. The increasingly disinterested, not to say contemptuous, tone of commentary even from American Europhiles testifies to a growing disillusionment with the European Union.

Perhaps more worryingly still, there is evidence to suggest that leading member states are beginning to share this disillusionment. The November Anglo-French summit in London resulted in agreement on bilateral defence collaboration, but did not place this in the wider context of CSDP. There are thus certainly grounds to fear that the Union's leading military powers are increasingly coming to doubt the utility of an EU policy that was largely their own creation.

ESDP however, was launched for a reason, and that reason still holds. For all the shortcomings of the Lisbon treaty, member states must do what they can to use its provisions to enhance their multilateral collaboration or the chronic problems identified so well in the Lisbon text will continue to undermine their ability to weigh significantly on international security affairs.

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