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‘Let me summarise the position. The provisions of the Lisbon Treaty on foreign, security and defence policy are therefore not difficult to characterise. They are, by common agreement across the House, more substantial than the Government have acknowledged. Although they are described as limited in their implications, even a short analysis suggests that their future implications could be far-reaching. For that reason, they have been, almost without exception, opposed by Ministers during the negotiations of the treaty, and for the same reason they are opposed by the Opposition today.’

Shadow Foreign Secretary William Hague, House of Commons debate 20th February 2008

INTRODUCTION

1. It was with considerable shock that European leaders greeted the result of the referendum in Ireland on the Lisbon Treaty. In a turnout of 53%, a majority of Irish voters rejected their government’s plea to vote in favour of Irish ratification. Immediately afterwards, Germany’s Chancellor Angela Merkel said: ‘The EU needs the Lisbon Treaty to be able to act, and for future enlargements.’ But for others, the Irish (uniquely among the 27 member states) had been offered – and accepted – a welcome opportunity to stop the treaty coming into force. The basis for objections to the Treaty are wide ranging, but a key concern for many is the direction which the Lisbon Treaty takes the EU’s common foreign and security policy, and critically the effect on the Atlantic Alliance. According to this argument, NATO (‘the indispensable Alliance’) is more than a mere military Alliance. During the Cold War it became “both the political expression and the symbol of the Western democracies’ determination to face down the Soviet threat and to free the Soviet bloc from communist oppression”.2 Importantly, after the Cold War, NATO continued to forge an important role for itself: as international negotiator, as the pre-eminent military Alliance, and a ‘natural vehicle’ for US involvement in European security (the Balkans) and global security (Afghanistan). It remains the cornerstone of collective European security, and the primary forum for formulating strategy to combat modern threats such as terrorism and weapons of mass destruction. The European Union, on the other hand (Atlanticists might argue), has weakened the Alliance. The EU’s common foreign and security policy – and especially the European Security and Defence Policy (ESDP) – has become established as a rival to NATO, and US influence in particular. Far from operating as complementary to NATO, the ambition of ESDP to have capacity for autonomous action has served only to duplicate NATO assets – and in any event has little genuine military capability. At the political level, ESDP has allowed US and European policy to develop separately with the potential to lead to damaging public rifts such as during the run up to the 2003 invasion of Iraq. These criticisms are by no means assuaged by the Lisbon Treaty. Under the treaty, the ability of NATO members who are also members of the EU to act in the interests of the Alliance is greatly constrained. This is because the Lisbon Treaty underlines the inter-governmental nature of the existing EU system by giving the Union legal personality, and by requiring member states “to support the Union’s external and security policy actively and unreservedly”3. Given that the aspiration of the Union’s common foreign and security policy is ‘the progressive framing of a common defence policy that might lead to a

3 Article 24(3)
common defence’, it follows that a particular member state may find itself forced to pursue a policy contrary to the interests of the Atlantic Alliance. In short, the Lisbon Treaty marks another stage in the gradual weakening of NATO.

2. This dissertation will seek to answer the question as to whether ratification would undermine the Atlantic Alliance. Its thesis is that concerns regarding greater European co-operation in foreign and security policy are over-stated. Examination of the historical development of European security policy shows the Lisbon Treaty is no more than the natural continuation of a process begun after the Second World War. The expressed intent of the 1957 Treaty of Rome was that the Parties were ‘determined to lay the foundations of an ever closer union among the peoples of Europe’. Successive European treaties on political and economic union have, undoubtedly, included increasingly ambitious references to a broader union including foreign and security policy. But this process has been evolutionary rather than revolutionary. The overarching strategic purpose of European Union has been underpinned by the understanding amongst member states that prosperity is best achieved by ‘pooling their resources to preserve and strengthen peace and liberty’4. European leaders have sought to establish common policies across a range of issues from agriculture to trade to the environment and security. But at the same time, the EU (and especially the newer members) has never lost sight of the value of the Atlantic Alliance to their security. Accordingly, all European treaties – including the Lisbon Treaty – have been unambiguous in re-stating the centrality of NATO, and there is no evidence that the Lisbon Treaty establishes procedures or processes that will undermine this. In any event, a stronger and more united Europe has always been a strategic US goal as well as a European one. An examination of security strategies on both sides of the Atlantic shows this to be the case. The dissertation will argue, therefore, that the Lisbon Treaty in fact strengthens the cohesion of Europe; whilst at the same time preserves the primacy of NATO as the guarantor of Atlantic security.

3. The dissertation seeks to make this argument by, firstly, describing the approach of the victorious allies to ensuring European security after the Second World War. It then examines the strategic shift wrought by the end of the Cold War, and the concomitant enlargement of both NATO and the EU. Against this background, the dissertation analyses the provisions of the Lisbon Treaty and assesses their impact on trans-Atlantic relations. By examining security strategies on both sides of the Atlantic, the dissertation seeks to demonstrate that the Lisbon Treaty meets the interests of both sides, whilst acknowledging that there do remain some friction points.

**POST SECOND WORLD WAR SECURITY DEVELOPMENTS**

4. It is impossible to assess the likely impact of the Lisbon Treaty on the Atlantic Alliance without understanding the history of both organisations. The development of each has been shaped by the evolving (and sometimes divergent) political and security concerns on both sides of the Atlantic. Notwithstanding increasing global interdependence, this proposition will almost certainly hold true for the future.

5. Immediately after the Second World War, the victorious European Allies held residual fears about a resurgent Germany. To mitigate that threat, the UK, France, Belgium, Netherlands and Luxembourg signed the 1948 Brussels Treaty. The purpose of the Treaty was both ‘to co-operate loyally and to co-ordinate efforts to create in Western Europe a firm basis for European economic recovery’ as well as ‘to take such steps as may be necessary in the event of a renewal by Germany of a policy of aggression’5. Under Article IV of the Treaty – in language strikingly similar to the Nat Treaty – the Parties agreed to offer ‘all the military and other aid and assistance in their power’ to any other Party the object of an armed attack in Europe.

6. Very quickly – as the emerging threat from the Soviet Union became clear – these treaties were rendered irrelevant by the 1949 Washington Treaty between USA, Canada and the ten


6 Belgium, Denmark, France, Iceland, Italy, Luxembourg, Netherlands, Norway, Portugal, and United Kingdom.
European states that established NATO. Thereafter, for the duration of the Cold War, security in Europe became a transatlantic issue focussed on the threat from the east. Nevertheless, there was an attempt in the 1950s – by six European countries⁷ - to establish a genuinely European defence system, based on a mutual assistance clause and ‘European Defence Forces’ with a single budget and common uniform. Although the European Defence Community treaty was signed in May 1950, it was never ratified. Initially, the US was opposed to the idea of a common defence because the six European countries did not include West Germany and ‘Washington maintained that its support for a European army would be contingent upon the plan being fully sound, politically and militarily, and not causing any delay in the build-up of western defence’.⁸ Accordingly, Jean Monnet, the French inspiration behind the project, worked assiduously to persuade the Americans that a European army would in itself bring greater political integration – and therefore security – to Europe. He succeeded, and it was only domestic French opposition to the project that prevented ratification. But importantly, the episode illustrates that, even sixty ago, the US view of European security strategy struggled to find a balance between relief that Europe was accepting the burden for its security and concerns about an autonomous force.

7. The re-integration of West Germany and Italy into the European security system was achieved in 1954 when the Paris Treaty amended the 1948 Brussels Treaty to include these two countries – and thereby allowed them to join NATO. Importantly, the 1954 Paris Treaty also established the Council of Western European Union (WEU). The relevant protocol to the treaty described the purposes of the WEU as the ‘strengthening peace and security and … promoting unity and … encouraging the progressive integration of Europe …’⁹ However, although on the face of it the WEU appeared to have the authority to advance European security, its main function was to monitor the armaments constraints imposed on West Germany.¹⁰ It was avowedly not an alternative to transatlantic security co-operation. Indeed, the 1954 Treaty inserted a new Article (Article IV) into the 1948 Brussels Treaty which made this clear:

> ‘In the execution of the Treaty the High Contracting Parties ... shall work in close co-operation with the North Atlantic Treaty Organisation. Recognising the undesirability of duplicating the military staffs of NATO, the Council and its Agency will rely on appropriate military authorities of NATO for information and advice in military matters.’¹¹

8. It can be seen, therefore, that in the late 1950s the Europeans saw the security of Europe as being under the umbrella of the USA and NATO. Indeed, in the same way that initial US hostility to the EDC was because the EDC did not include West Germany, so (as now) the Americans saw it as vital that European security was both collective and under the control of the US. As Michael Quinlan puts it:

> ‘US administrations...tended to regard with suspicion any effort made within groupings confined to Europeans (especially if France was included). The spectre of conjectured European “caucus” behaviour tiresomely incompliant with US preferences lurked in the background.’¹²

GROWING ECONOMIC AND POLITICAL CO-OPERATION IN EUROPE

9. Following the failure of the European Defence Community – but determined to encourage economic and political unity within

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7 France, Belgium, German Federal Republic, Italy, Luxembourg and Netherlands.
10 See, for example, Protocol IV “Protocol on the Agency of the Western European Union for the Control of Armaments”.
Europe – the Schumann Plan (named eponymously after the French politician who is widely credited with the idea) proposed that Franco-German coal and steel production be placed under a common Higher Authority. France and Germany were joined by Italy, Belgium, Luxembourg and Netherlands, and the European Coal and Steel Community treaty was signed in Paris on 18 April 1951.

10. Moves for greater European economic integration continued at pace during the 1950s, although notably not in the UK. They led in March 1957 to the Treaties of Rome which created the European Economic Community (EEC) and the European Atomic Energy Community (Euratom). The primary purpose of the EEC was to transform the conditions of trade and manufacture within the Community to create a common market. The second – broader – purpose was a contribution towards the functional construction of a political Europe. But during this period, there was little development in the field of greater defence co-operation. This was partly because French President De Gaulle had withdrawn France from the NATO military structure in 1966 on the basis that he did not want to compromise France’s nuclear weapons; and partly because the UK (an obviously key player) was not a member of the EEC until 1972.

TOWARDS COMMON SECURITY

11. However, there was a growing feeling within the US that the Europeans should do more. This found expression in the proposal by Senator Michael Mansfield in 1971 that US forces in Europe should be reduced. The thinking behind the ‘Mansfield Amendment’ was simple: With growing US commitments in, for example, Asia, it was incumbent now on the Europeans to spend more resources themselves on their own security. Partly in response, the Eurogroup (an informal gathering of European NATO defence ministers) was established. Nevertheless, the main forum for greater European integration remained the EEC. The UK, Denmark and Ireland joined the EEC in 1972; Greece in 1979; and Spain and Portugal in 1985.

12. During the early 1980s, the EEC member states agreed to review progress towards greater Community co-operation. For the first time, this was explicitly stated to include security policy as well as economic. And the phrase ‘European Union’ began to make its way into the lexicon. Indeed, the Stuggart Declaration specifically stated that the Heads of Government were ‘determined to achieve a comprehensive and coherent common political approach and reaffirm their will to transform the whole complex of relations between their States into a European Union’. Essentially, the reason for this shift towards greater European co-operation can be attributed to a feeling among European leaders that greater union could only be achieved if pursued on a broad front – more than just economics and trade. Under its new President, Jacques Delors, the Commission published a White Paper on the Internal Market in 1985 which led to the signing of the Single European Act (SEA) in 1986. The SEA transformed the Common Market into a single market.

13. But significantly, the SEA was quite explicit in its dual purpose (the move towards a European Union and the widening of its sphere of influence to include foreign policy):

‘Resolved to implement this European Union on the basis, firstly, of the Communities operating in accordance with their own rules and, secondly, of European co-operation among the signatory States in the sphere of foreign policy ...’

And Article 30(1) provided that:

‘The High Contracting Parties, being members of the European Communities, shall endeavour jointly to formulate and implement a European foreign policy.’

Although Article 30(6)(c) states that:

‘Nothing in this Title shall impede closer co-operation in the field of security between certain of the High Contracting Parties within the framework of the West European Union or the Atlantic Alliance.’

14 Pre-amble to the Single European Act signed 17 February 1986 in Luxembourg.
14. Article 30(6)(c) was a clear acknowledgement that certain members states (notably the UK under Margaret Thatcher) did not see European security as developing separately from NATO. At the same time, the so-called ‘neutrals’ – that is members of the EU that are not members of NATO (notably Austria, Finland, Ireland and Sweden) – took a different position. These countries, embracing a culture of neutrality (albeit for different reasons), have therefore opposed greater military co-operation within Europe. It is significant that it was Ireland who rejected the 2001 Nice Treaty in a referendum - partly on the basis that it did not want to abandon its position on military neutrality. Paradoxically, these countries therefore have often found themselves agreeing with France that European defence co-operation should develop outside NATO – although they oppose a common EU defence as an alternative.

15. Given this impasse, consensus was achieved on an attempt to re-invigorate the WEU on the occasion of its 30th anniversary in 1984. This process produced some tangible results, especially in the operational field. For example, in 1987 the WEU took the lead in providing mine-clearance capabilities to the Gulf during the Iran/Iraq War with ships from Belgium, France, Italy, Netherlands and UK. But up until the end of the Cold War the main security threat to Western Europe was from the Soviet Union; and it was acknowledged that NATO (with the involvement of the US) was the proper organisation to meet that threat. This was to change at the end of the Cold War.

THE END OF THE COLD WAR

16. The fall of the Berlin Wall in 1991, dissolution of the Warsaw Pact and the breakup of the Soviet Union was a fundamental driver for change. Primarily, the founding raison d’être for NATO – an attack by the Soviet Union – was gone. But secondly, the inability of the European nations to contribute significantly militarily (as compared to the US) to the removal of Sadam Hussein from Kuwait made the case for greater European co-operation more powerful. And thirdly, France saw an opportunity to advance the European agenda absent the involvement of the US within NATO. These factors found voice in the negotiations that led to the signing of the Maastricht Treaty (the Treaty on European Union) on 7 February 1992.

17. The principal purpose of the Maastricht Treaty was to bring the three Communities (ECSC, Euratom and EEC) under one umbrella – the European Union (EU). The EEC was re-named the EU. The treaty created economic and monetary union and put into place new Community policies (education, culture, co-operation and development). This is known as the First Pillar.

18. The 12 member states also resolved to institutionalise co-operation within security and defence under a Second Pillar – the so-called common foreign and security policy (CFSP). This acknowledged the fundamental strategic shift following the end of the Cold War, namely that with the threat of the Warsaw Pact removed, the US was now bound to expect more of the Europeans. At the same time, European leaders also realised that security in Europe was to be achieved by expansion to the east to include the countries of the former Soviet Union in political and economic union. Accordingly, the Treaty adopted increasingly ambitiously language:

'Resolved to implement a common foreign and security policy including eventual framing of a common defence policy, which might in time lead to a common defence ...'16

But again – and partly at the insistence of the British – the treaty was emphatic about not usurping the role of NATO:

'The policy of the Union ... shall not prejudice the specific character of the security and defence policy of certain Member States and shall respect the obligations of certain member States under the North Atlantic Treaty and be comparable with the common security and defence policy established within that framework.'17

15 The third pillar covers police and judicial cooperation in criminal matters.
16 Pre-amble to the Treaty on European Union signed 7 February 1992 in Maastricht.
17 Article J.4.4
19. The reasons for this caveat were unchanged from 1986. The ‘neutrals’ were concerned about losing their neutral status, while others still regarded the link with the US as essential (and in any event did not want to cede sovereignty to Brussels).

20. The Maastricht Treaty also acknowledged the role of the WEU, ‘which is an integral part of the development of the Union, to elaborate and implement decisions and actions of the Union which have defence implication’. The WEU Council of Ministers met in Bonn in June 1992 and issued the Petersburg Declaration. The declaration identified certain tasks in which military units of WEU member states could be employed – in addition to the common defence in accordance with both Article 5 of the Brussels Treaty and Article 5 of the Washington Treaty. These were: humanitarian and rescue tasks, peacekeeping tasks, and tasks of combat forces in crisis management, including peacekeeping – the so-called ‘Petersburg Tasks’. This attempt by the Europeans – to establish a capacity to deploy military forces in circumstances where the US did not wish to become directly involved but nevertheless within the framework of NATO – became known as the European Security and Defence Identity (ESDI). The crucial point about EDSI was that it was always understood to be a process that took part within the framework of NATO, and thus with the tacit approval of the US. To some extent, ESDI met the recurring concerns for both NATO and the EU. For NATO, ESDI was always subject to veto by NATO members, and therefore avoided any conflict of interest between NATO and non-NATO states such as Turkey and Cyprus. The veto also avoided the possibility of ‘backdoor security’ by NATO members for non-NATO countries. For the EU, ESDI gave Europe a capacity to act without the need to resource new structures and capabilities.

21. Meanwhile, the EU began to prepare itself for enlargement with the Amsterdam Treaty signed in October 1997. The Treaty repeated the political intent to ‘implement a common foreign and security policy including the progressive framing of a common defence policy which might lead to a common defence’ and established the function of High Representative for the common foreign and security policy to be carried out by the Secretary-General of the European Council (Javier Solana). But essentially, the Amsterdam Treaty left the Maastricht defence arrangements unchanged. For example, in relation to the ‘neutrals’, these countries were able to negotiate the ‘constructive abstention’ clause under which they could ‘opt-out’ of a decision taken by the Council acting under the provisions of the common foreign and security policy.

22. The war in Yugoslavia crisis proved a cathartic experience both for EU and NATO policy makers. Richard Holbrook (then US Assistant Secretary of State for European and Canadian Affairs) described the former Yugoslavia as ‘the greatest collective security failure of the West since the 1930s’. That failure was in part due to a lack of co-ordination between the US and Europe. There were, of course, elements within Europe that did not want the Americans to become involved. In 1991, Jacques Delors, the President of the European Communities stated: ‘We do not interfere in American affairs; we trust America will not interfere in European affairs.’ And in his memoirs, US Secretary of State James Baker noted: ‘It was time to make the Europeans step up to the plate and show that they could act as a unified power.’

**INCREASING EUROPEAN SECURITY COOPERATION**

23. However, the failure of European policy in the Balkans had a profound effect on the view of European leaders, and particularly Jacques Chirac elected president of France in 1995 and Tony Blair elected Prime Minister of Britain in 1997. Hitherto, the French position had been a desire to move towards greater European integration. The UK view was a natural instinct to remain close to the US. A major shift occurred in 1998 with the St

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18 Article J.4.2

19 Treaty of Amsterdam amending the Treaty on European Union signed 2 October 1997 in Amsterdam, Article 1(3).
20 Amsterdam Treaty, Article J13.
Malo Declaration between France and UK. Although the St Malo Declaration was a bi-lateral declaration, it was adopted subsequently by the European Council at its meeting in Cologne in June 1999. Essentially, the crux of the St Malo Declaration was an acknowledgement by the European leaders that the EU must be able to act in its own right and with its own assets:

‘The European Union needs to be in a position to play its full role on the international stage. This means making a reality of the Treaty of Amsterdam, which will provide the essential basis for action by the Union ... This includes the responsibility of the European Council to decide a progressive framing of a common defence policy in the framework of CFSP ... To this end, the Union must have the capacity for autonomous action, backed up by credible military forces, the means to decide to use them and a readiness to do so, in order to respond to international crisis.’

24. The declaration was the basis of what became known as the European Security and Defence Policy (EDSP). But unlike the ESDI – which operated within the NATO framework – it was clear from the outset that EDSP was a European initiative.

‘SEPARABLE BUT NOT SEPARATE’

25. Six months after the St Malo Declaration, the NATO leaders gathered in Washington DC in April 1999 to mark the 50th anniversary of the Alliance. Given the situation at the time in Kosovo, the St Malo Declaration did not feature prominently. Nevertheless, the summit strengthened the arrangements established in Berlin in 1996 whereby it was agreed ‘to identify, within the Alliance, types of separable but not separate capabilities, assets and support assets’ that could be made available for WEU-led operations. At Washington it was decided to build on the Berlin decisions and ‘to define and adopt the necessary arrangements for ready access by the European Union to the collective assets and capabilities of the Alliance, for operations in which the Alliance as a whole is not engaged militarily as an Alliance’. These arrangements – fleshed out over the next 3 years – became known as ‘Berlin Plus’. Essentially, under Berlin Plus, it is agreed that: the EU will enjoy assured access to NATO planning capabilities; the presumption of availability of pre-identified NATO capabilities and common assets; identification of a range of European command options for EU-led operations; and adaption of NATO’s planning system to incorporate the availability of forces for EU-led operations.

26. The limitations in EU military force – especially when compared with the US – were acknowledged by European leaders. At the European Council in Helsinki in 1999 for example, the UK and France proposed specific capability requirements for member states – the ‘Headline Goals’. The cumulative aspiration for the headline Goals was the ability ‘by 2003, to deploy within 60 days and sustain for at least one year military forces of up to 50-60,000 persons capable of the full range of Petersburg tasks’.

27. These developments were viewed with some suspicion in Washington. On one hand, there was some pleasure that the Europeans were apparently trying to share the burden with America on European defence. On the other, there was a belief (especially in relation to France) that improvements in European military capability should be channelled through NATO and the ESDI rather than exist as a potentially separate undertaking under EDSP. After all, the agreement in Washington had been “to reaffirm our commitment to building the ESDI within the Alliance” and the Alliance’s Strategic Concept stated “The European Security and Defence Identity will continue to be developed within


27 The exchange of letters from December 2002 that sets out the terms of the relevant ‘permanent arrangements’ is a classified document.
29 Washington Communiqué, paragraph 5.
NATO”. The US Secretary of State expressed US concerns in the following way:

“As Europeans look at the best way to organise their foreign and security policy, the key is to make sure that any institutional change is consistent with basic principles that have served the Atlantic partnership well for 50 years. This means avoiding what I would call the Three Ds: decoupling, duplication and discrimination.

First we want to avoid decoupling: NATO is the expression of the indispensable transatlantic link. It should remain an organisation of sovereign allies, where European decision-making is not unlocked from broader Alliance decision-making. Second, we want to avoid duplication: defence resources are too scarce for allies to conduct force planning, operate command structures, and make procurement decisions twice – once at NATO and once more at the EU. And third, we want to avoid any discrimination against NATO members who are not EU members.”

28. American ambivalence towards ESDP continued throughout the late 1990s and early 2000s. During the Clinton administration, attempts were made by Europeans to persuade the Americans that ESDP would strengthen and enhance the Alliance. For example, NATO Secretary-General George Robertson ‘countered the negativity of the “3 Ds” with the more positive “3 Is”: improvement in Europe’s military capability, inclusiveness for all NATO allies; and indivisibility of transatlantic security.’ This policy continued with the Bush administration, and after his first NATO summit President Bush declared:

“The United States would welcome a capable European force properly integrated with NATO that provides new options for handling crisis when NATO chooses not to lead. Such a force will require EU members to provide the resources necessary to create real capabilities, without waste or duplication. And such a force must be inclusive, so that all allies who wish to contribute are as fully involved as possible.”

29. But EU-NATO relations were also complicated by two other factors. Firstly, there was – and remains - the particular problem of the six NATO countries who are not members of the EU, especially Turkey. These States have always been particularly concerned that a shift to an EU-based security policy would see them marginalised, and it was not until December 2002 that the issue was partly resolved. Secondly, the parallel expansion/enlargement of both NATO and the EU has posed a particular dilemma for the countries of the former Soviet bloc. Unsurprisingly perhaps, these countries have tended to see their security guaranteed through NATO and the US rather than through the EU. Indeed, for many of them, NATO membership has been easier to secure than membership of the EU. In any event, US scepticism about the ability of Europe to organise itself effectively as a global security player has meant that NATO (rather than EU) enlargement is seen as the way of extending influence east. EU enlargement on the other hand has been notably more challenging to achieve. Nevertheless, politically (and primarily in relation to economics) the mood within Europe was also for enlargement of the EU to embrace the Eastern European countries of the former Soviet Union. But in order to do this, the EU needed to continue to re-structure itself in organisational terms.

30 ‘The Alliances Strategic Concept’ Approved by heads of State and Government participating in the meeting of the North Atlantic Council in Washington, DC on 23rd and 24th April 1999, paragraph 30
34 Turkey was given a formal guarantee that ESDP missions would not be deployed in the Aegean, and also given automatic involvement in the event of an EU mission using NATO assets.
EU ENLARGEMENT AND THE CONSTITUTIONAL TREATY

30. The Treaty of Amsterdam protocols stated ‘at least one year before the membership of the European Union exceeds twenty, a conference of representatives of the governments of the Member States shall be convened in order to carry out a comprehensive review of the provisions of the Treaties’. Ultimately, the result was the Treaty of Nice signed by the 15 member states on 26 February 2001. The function of the Nice Treaty was to make some adjustments, especially in relation to the institutions such as the Council and the Commission, prior to accession by candidate states. The Treaty of Nice also repealed the provisions of the Amsterdam Treaty that stated ‘the WEU is an integral part of the development of the Union providing the Union with access to an operational capability ...’. From now on, the EU would act as a vehicle to implement EDSP through an operational capability. But importantly, in a “Declaration on the future of the Union” annexed to the Treaty, the Conference called for a deeper and wider debate on the future of the European Union. The Laeken Declaration established that reform was to be brought about a Convention whose task was to draft a Treaty establishing a European Constitution. But the Nice Treaty had done enough to allow the enlargement, and in Athens on 16 April 2003 ten new states signed an accession treaty to join the EU. Bulgaria and Romania followed suit in 2005.

31. The Convention established by the Laeken Declaration presented its draft Constitution to the European Council in June 2003. It was considered by an Intergovernmental Conference between October 2003 and June 2004 and was signed (but not of course ratified) by all 25 Heads of State and Government on 29 October 2004 in Rome.

32. The aim of the Constitutional Treaty was to make the EU more democratic, more transparent and more efficient. According to the Laeken Declaration the Constitution was also to answer, inter alia, the following question: ‘How, for example, should a more coherent common foreign policy and defence policy be developed?’

33. The Constitutional Treaty sought to address these issues by abolishing the three-Pillar structure of the Maastricht Treaty. Under the Constitution, the EU would have legal personality and a single legal framework. Importantly, whilst the Constitutional Treaty (and indeed the Lisbon Treaty) retain the concept of the Common Foreign and Security Policy (CFSP) first articulated in the Maastricht Treaty, it stated (Article I-40): ‘The European Union shall conduct a common foreign and security policy, based on the development of mutual political solidarity among Member States, the identification of questions of general interest and of an ever-increasing degree of convergence of Member States’ action’. With respect to security and defence policy, Article I-41 stated:

34. The common security and defence policy shall be an integral part of the common foreign and security policy. It shall provide the Union with an operational capacity drawing on civil and military assets. The Union may use them on missions outside the Union for peace-keeping, conflict prevention and strengthening international security in accordance with the principles of the United Nations Charter. The performance of these tasks shall be undertaken using capabilities provided by Member States.

35. The Constitutional Treaty was due to enter into force on 1 November 2006, provided it had been ratified by all Member States in accordance with their respective constitutional arrangements. A number of Governments decided to organise a national referendum, and the first took place in Spain in February 2005 where the Treaty was approved by 76.7% of those who voted. However, similar referenda in France and the Netherlands resulted in rejection. As a result, the Constitutional Treaty did not come into force.

THE LISBON (REFORM) TREATY

36. In June 2007 the European Council agreed that ‘after two years of uncertainty over the Union’s treaty reform process, the time has come to resolve the issue and for the Union to move on.’
The period of reflection has provided the opportunity in the meantime for wide public debate and helped prepare the ground for a solution.37 Accordingly, the Council agreed to commence an Intergovernmental Conference, to draw up a ‘Reform Treaty’. The mandate of the ‘Reform Treaty’ was to:

37. Draw up a Treaty amending the existing treaties with a view to enhancing the efficiency and democratic legitimacy of the enlarged Union, as well as the coherence of its external action. The constitutional concept, which consisted in repealing all existing Treaties and replacing them by a single text called “Constitution”, is abandoned.38 The mandate also stated ‘there will be no articles in the amended Treaties mentioning the symbols of the EU such as the flag, the anthem or the motto’.39 Agreement between all 27 Member States was reached at the Inter Governmental Conference in October 2007, and the Treaty was signed in Lisbon on 13 December 2007.

38. The ambition in the Lisbon Treaty, with respect to the common foreign and security policy, was on improving decision-making and working structures. The Treaty merges all provisions on external action40 into a single ‘Title’ called ‘General Provisions on the Union’s External Action and Specific Provisions on the Common Foreign and Security Policy’. The effect of merging all these provisions into a single ‘Title’ means that they are subject to a common framework of principles (Article 21(2)).

39. The Lisbon Treaty also creates the office of the High Representative of the Union for Foreign Affairs and Security Policy.41 Appointed by the European Council, he is also one of the Vice Presidents of the Commission.42 This new office combines in one person the tasks currently performed separately by the High Representative for the common foreign and security policy, the Commission for External Affairs, and the six-monthly rotating Presidency of the Foreign Affairs Council.

40. Under the Treaty, the High Representative ‘shall conduct the Union’s common foreign and security policy’ (Article 18).43 Under Article 27(2) he is also tasked to ‘represent the Union for matters relating to the common foreign and security policy’. The High Representative is assisted by the External Action Service (EAS) another institution created by the Lisbon Treaty. However, the EAS is not the putative diplomatic service envisaged by some during the treaty negotiations. Rather it is to work ‘in co-operation with the diplomatic services of the member States’.

41. So far as defence is concerned, the Lisbon Treaty provides a number of steps towards greater coherence. Importantly, it is stated that the common security and defence policy shall be an integral part of the common foreign and security policy. More controversially, the Lisbon Treaty introduced the so-called ‘solidarity clause’ in Article 42(7):

> If a Member State is the victim of armed aggression on its territory, the other Member States shall have towards it an obligation of aid and assistance by all the means in their power, in accordance with Article 51 of the United Nations Charter.

(The Constitutional Treaty included a second solidarity clause according to which ‘the Union and its Member States shall act jointly in a spirit of solidarity if a Member State is the object of a terrorist attack or the victim of a natural or man-made disaster’.44)

42. Secondly, the Lisbon Treaty creates the possibility of a permanent structured co-operation between willing Member States ‘whose military capabilities fulfil higher criteria’. Under these

43 Under the Constitutional Treaty, the Union Minister for Foreign Affairs’ remit was ‘to be in charge of ensuring the consistency of the Union’s external action, including the common foreign and security policy, and conducting the common foreign and security policy.’

44 Constitutional Treaty, Article 1-43.
provisions, ‘Those member States whose military capabilities fulfil higher criteria and which have made more binding commitments to one another in this area with a view to the most demanding missions shall establish permanent structured co-operation within the Union’s framework’ (Article 42(6)).

43. Thirdly, the Lisbon Treaty provides for the formal creation of a Defence Agency in the fields of capabilities development, research, acquisition and armaments (Article 42(3)). In fact, the European Defence Agency (EDA) had been established by the Council on 12 July 2004 and has been operating since.

44. Like the Constitutional Treaty, the Lisbon Treaty cannot come into force until ratified by all 27 member states in accordance with their constitutional requirements and the instruments of ratification deposited in Rome. The goal at Lisbon was to achieve ratification during 2008 so that it would come into force by 2009. Ratification requirements vary from country to country, although only Ireland has held a referendum. At its referendum, on 16 June 2008, 53.4% of those who voted rejected the Treaty. The Irish decision caused considerable alarm among the EU leaders since it inevitably delayed the coming into force of the Treaty. In the immediate aftermath, views varied considerably. On one hand, some leaders took the view that Irish concerns should be fully addressed; other leaders took the view that other members should press on with ratification as quickly as possible. The matter was discussed at the European Council 19/20 June 2008 where it was decided:

*The European Council agreed that more time was needed to analyse the situation. It noted that the Irish government will actively consult, both internally and with other member States, in order to suggest a common way forward .... The European Council agreed to Ireland’s suggestion to come back to this issue at its meeting of 15 October 2008 in order to consider the way forward.*

***COMPLEMENTARY SECURITY STRATEGIES?***

45. In order to assess the likely impact of Lisbon on the Alliance, it is necessary to examine the treaty’s compatibility with the security strategies on both sides of the Atlantic. In December 2002, NATO and the EU made a landmark declaration in Brussels that ‘welcomed the strategic partnership established between the European Union and NATO in crisis management’ and welcomed ‘the capacity to conduct EU-led crisis-management operations, including military operations where NATO as a whole is not engaged’. Following the 2002 EU-NATO Declaration, the EU pressed on with developing its own security strategy. There were a number of drivers for this. Primarily it was a reaction to the US National Security Strategy of 2002 and the fallout from the disagreement over the 2003 invasion of Iraq. The 2002 document was a clear statement by the US that: ‘While the United States will constantly strive to enlist the support of the international community, we will not hesitate to act alone, if necessary, to exercise our right of self-defence by acting pre-emptively against such terrorists ….’

The invasion of Iraq the following year was clear evidence that the US stood by its intent. Accordingly, principally led by France and Germany but with the approval of the UK, in May 2003 the EU foreign ministers tasked Javier Solana with producing a text. The final draft of the European Security Strategy (ESS) – *A Secure Europe in a Better World* was accepted by the European Council in December 2003.

46. The ESS identifies five key threats – terrorism, weapons of mass destruction, failed states, organised crime and regional conflicts. In order to meet these threats, the ESS proposes three strategic objectives – ‘addressing the specific threats’, ‘building security in the European region’,

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45 As of July 2008, ten member states have deposited instruments of ratification.

46 ‘It is time for a little bit of thinking and analysis … It would be risky to say we are going to bring the Treaty back to life when we are facing a blockade’, Slovenian Foreign Minister Dimitrij Rupel quoted on [http://news.bbc.co.uk/1/hi/world/europe/7458117.stm](http://news.bbc.co.uk/1/hi/world/europe/7458117.stm) accessed 17 June 2008.


and ‘creating a viable new international order’. Not surprisingly, the EU document (more so than the US) is strong on expressing support for international law and institutions. Of NATO it says: “One of the core elements of the international system is the transatlantic relationship. This is not only in our bilateral interest but strengthens the international community as a whole. NATO is an important expression of this relationship.”

But critically, the ESS stresses the view – widely held in Europe – that the ‘challenge now is to bring together the different instruments and capabilities: European assistance programmes and the European Development Fund, military and civilian capabilities from Member States and other instruments. All of these can have an impact on our security and on that of third countries. Security if the first condition for development’.51

It is true to say that the US document also acknowledges what might be called ‘the comprehensive approach’, but there is greater emphasis in the ESS. This approach in the ESS reflected a strand of thinking that existed for some time, even within the context of ESDP. However, notwithstanding the aspiration, the EU has struggled to establish a truly autonomous capability in either a military or civilian sense.

47. So far as military capabilities are concerned, in May 2004, and building on the Helsinki Headline Goals of 1999, the European Council adopted the Headline Goal 2010. This committed the Union ‘to be able by 2010 to respond to a crisis with rapid and decisive action applying a fully coherent approach to the whole spectrum of crisis-management operations covered by the Treaty on European Union’.52 But importantly, the Helsinki Headline Goal of 1999 had stated:

Also, in order to assume these responsibilities, the Union will improve and make more effective use of resources in civilian crisis management in which the Union and member States already have considerable experience. Special attention will be given to a rapid reaction capability.

48. The Council decided to establish, in particular, three new permanent political and military bodies: a standing Political and Security Committee; the Military Committee; and the Military Staff. The concept has become known as Civilian Crisis Management (CCM).

49. After 1999, considerable progress was made on CCM. The ESS gave CCM increased prominence, and in June 2004 the Council agreed to convene a Civilian Capabilities Conference to work on a Civilian Headline Goal. The Council agreed the ‘Civilian Headline Goal 2008’ (CHG 2008) in November 2004. This was updated in November 2007 to the ‘Civilian Headline Goal 2010’. The principal ambition of CHG 2010 is to ensure that ‘sufficient numbers of well-qualified personnel are available across the civilian EDSP priority areas and for mission support, to enable the EU to establish a coherent civilian presence on the ground where crisis situations require it to do so’.

50. In fact, the evidence to date is that the EU has undertaken more ‘civilian’ operations than ‘military’ operations. For example, of the twenty-one EU operations since 1983 (of which eleven are ongoing and ten are completed), five have been military and sixteen civilian. Moreover, it is clear that the intention within Europe is to attempt to press on with creating and improving both civilian and military capability. For example, the French ambition in the June 2008 White Paper is unambiguous: Key Finding 8 states:

The European ambition stands as a priority. Making the European Union a major player in crisis management and international security is one of the central tenets of our security policy. France wants Europe to be equipped with the corresponding military and civilian capability.

51. It sets out as a concrete goal for European defence ‘an overall intervention capability of 60,000 soldiers, deployable for one year in a distant theatre with the necessary air and naval

50 ESS p 9
51 ESS p 13
52 EU Presidency Report on EDSP, 17/18 June 2004
53 Civilian Headline Goals 2010, paragraph 3.
forces'\textsuperscript{56}. Similarly, the UK’s National Security Strategy 2008 states:

\begin{quote}
We will look for a stronger and more accountable European foreign and security policy, and more integrated EU capabilities across politics, development and security – with a particular focus on its potential to make a positive contribution to security sector reform, building on its experience in Bosnia.\textsuperscript{57}
\end{quote}

52. The Lisbon Treaty has the potential to act as a facilitator in this respect. For example, the mechanism of ‘permanent structured co-operation’ should permit greater coherency in planning and force allocation. And it is clear that the French see greater co-operation in defence industry too:

\begin{quote}
The mastery of all technological capabilities at national level is no longer possible ... The European framework should be privileged. This is the case for fighter aircraft, cruise missiles, satellites, electronic components etc.\textsuperscript{58}
\end{quote}

### FUTURE CHALLENGES

53. Ever since St Malo in 1998, the NATO – and the US in particular – has held a somewhat ambivalent attitude towards a stronger EU common foreign and security policy, and the implementation of the ESDP. On one hand, the US wishes to see (and indeed arguably needs) a stronger Europe. This is not only because a more united Europe is less likely to be the source of conflict, but also because the US needs a strong Europe with which to act as a partner in dealing with threats outside Europe itself. But on the other hand, the US sees NATO as the cornerstone of Atlantic security, and sees an autonomous European capability as potentially undermining NATO. It was for this reason that the US was alarmed initially by the St Malo Declaration, and somewhat relieved by the EU Helsinki Summit statement in 1999 that the EU would only act when ‘NATO as a whole is not involved’. And it is partly to mitigate US reaction that all the amendments to the EU treaties have included provisions to the effect that NATO remains the foundation of collective defence for EU NATO members. The Lisbon Treaty provides:

54. The policy of the Union in accordance with this Section [the common security and defence policy] shall not prejudice the specific character and defence policy of certain Member States and shall respect the obligations of certain Member States, which see their common defence realised in the North Atlantic Treaty Organisation, under the North Atlantic Treaty and be compatible with the common security and defence policy established within that framework.\textsuperscript{59}

55. However, despite the soothing words of the Treaty, NATO and the US have remained concerned about the possibility of ESDP developing as a rival to NATO. More importantly, the development of ESDP is sometimes seen as a vehicle for certain EU Member States to pursue a separate security agenda outside NATO – and one that is not always co-ordinated with US strategic interests. This fear found vivid expression in 2003 following the US-led invasion of Iraq. Amongst other unhelpful (in the eyes of the US administration) actions, a number of EU countries – France, Germany, Belgium and Luxembourg – proposed that the EU should establish a separate planning cell at Tervuren, Brussels. The US Permanent Representative to NATO Nicholas Burns stated that the proposal was ‘one of the most serious dangers to the trans-atlantic relationship’.\textsuperscript{60}

Put bluntly, the US view has always been that Europe should expend resources on more capabilities, rather than more institutions and headquarters; and that where Europe needed command and control for a stand-alone operation, then the Berlin Plus arrangements provided the mechanism for using NATO assets. In 2006, for example, the 26 NATO members spent US$804bn. on defence of which two-thirds was spent by the US. Similarly, the 27 EU members spent US$264bn. whereas the US spent US$536bn, i.e.

\begin{itemize}
\item \textsuperscript{56} ibid
\item \textsuperscript{57} National Security Strategy of the United Kingdom, para. 4.78, Cm 7291, March 2008
\item \textsuperscript{59} Article 42(2)
\item \textsuperscript{60} Cited by F Stephen Larrabee in \textit{The United States and the European Security and Defence Policy}, Finnish National Defence College Strategic Yearbook 2006, p 172.
\end{itemize}
over twice as much as all EU members combined.\textsuperscript{61}

56. Since the bitterness of the invasion of Iraq in 2003, the new administrations in both Germany and France have adopted a more conciliatory tone towards the US and NATO. This is evidenced in the French White Paper launched by President Sarkozy in June 2008. The strategy calls upon the EU to increase its planning and operational capability. But it is also quite clear about the complementarities of EU and NATO defence structures:

\begin{quote}
The White Paper recalls that there is no competition between NATO and the EU in the field of defence and security; it rejects the frequent temptation to define a priori a strict and frozen distribution of tasks between the two organisations. In the era of globalisation, the security stakes are such that each organisation can play its own role with its own methods and assets.\textsuperscript{62}
\end{quote}

57. The White Paper also predicts the return of France to the integrated military structure of NATO (‘a new rapprochement with the command structure of NATO should take place’). However, President Sarkozy has made it clear that such a move will take place ‘only if there’s first progress on Defence Europe’.\textsuperscript{63}

58. For some,\textsuperscript{64} the French indication to re-join NATO is a ‘quid pro quo’ for US acceptance of greater defence independence in Europe. And it is true that the US will still have concerns over the motives of some EU countries: Is the intention to develop a more multi-polar world by Europe acting as a balance to US power? The answer to that concern will ultimately be found in the action, but the mood (on both sides of the Atlantic) is certainly for a more inclusive and multilateral approach. But in relation to security at least, the current avowed intention of the European Security Strategy – and indeed the national strategies of at least France and the UK – is that NATO retains its responsibility for the collective defence of its allies. This is re-stated in the Lisbon Treaty:

\begin{quote}
Commitments and co-operation in this area [response to armed aggression] shall be consistent with commitments under the North Atlantic Treaty Organisation, which, for those States which are members of it, remains the foundation of their collective defence and the forum for its implementation.\textsuperscript{65}
\end{quote}

59. Two issues remain outstanding however. Firstly, the ‘solidarity clause’ (the obligation of aid and assistance in the event of armed aggression) clearly overlaps with Article 5 of the Washington Treaty. So what would happen if a non-NATO member of the EU was attacked? In an article published in November 2003, the Swedish and Finnish Foreign Ministers made their concern clear:

\begin{quote}
We also strongly reject the Convention’s proposal that a group of Member States should establish a mutual defence within the EU framework. This proposal, too, risks dividing the Union in matters of foreign policy and moreover leads to unnecessary tensions in transatlantic cooperation. Many other EU Member States, old and new alike, share our views on these issues. We want the EU to develop as a political Alliance with reciprocal solidarity, not as a military Alliance with binding defence guarantees.\textsuperscript{66}
\end{quote}

60. The ‘solidarity clause’ is equally troublesome for Atlanticists (who worry about the implications for NATO primacy) and for the non-EU members of NATO (who worry about ‘backdoor security’).

61. Secondly, there remains the particular problem of Turkey (and to a lesser extent Norway

\begin{itemize}
\item \textsuperscript{62}French White Paper on Defence and National Security, Chapter 8
\item \textsuperscript{64}See, for example, Bernard Jenkin ‘A Defence Policy for the UK: matching commitments and resources’, London: A Conservative Way Forward Publication, 2007, p 38
\item \textsuperscript{65}Article 42(7)
\item \textsuperscript{66}‘We want a stronger EU security policy’ by Laila Freivalds and Erkki Tuomoja, 11 November 2003, reproduced in Chaillot Paper No 67 p 429-431.
\end{itemize}
and Ireland) which are members of NATO, but not the EU. During the currency of ESDI, both Turkey and Norway – through their concomitant membership of the WEU – played a major role in European security policy developments. This role came to an end with the Nice Treaty which ended the role of the WEU for most purposes. Nevertheless, Turkey in particular can reasonably claim to be a significant actor in European security – on account of its geography, in relation to its dispute with Greece, and because of the Cyprus issue. The real concern, therefore, is that Turkey may not necessarily permit EU access to NATO assets under Berlin Plus, especially if the proposed EU operation is close to Turkey’s interests. In addition, Turkey has vetoed the sharing of NATO intelligence with the EU on the grounds that it would thereby be available to Cyprus. In this regard, the Lisbon Treaty cannot of course bind Turkey who is not a member of the EU. However, Turkey is pursuing EU membership, and were it to become a member of the EU then it would become subject to the requirement in Article 24(3):

_The Member States shall support the Union’s external and security policy actively and unreservedly in a spirit of loyalty and mutual solidarity and shall comply with the Union’s action in this area._

62. However, until then, in relation to Berlin Plus, ‘the EU cannot assume that access to NATO assets would be a foregone conclusion in the context of an EU military operation in South-Eastern Europe’.

**CONCLUSIONS**

_The two Governments declare that France and Great Britain shall no longer be two nations, but one Franco-Britain Union. The Constitution of the Union will provide for organs of defence, foreign, financial and economic policies._

63. Following the Irish referendum in June 2008, the EU has (again) entered a period of reflection during which its leaders consider how to react to a popular rejection of their vision for the future. To date, there has been no empirical study of why Irish voters did not want their Government to ratify the Treaty. The suspicion remains, however, that fears concerning greater European defence cooperation may have been a factor. For some on both sides of the Atlantic, the Irish have shown great vision because they have at least stalled a treaty whose effect would have been to damage the Alliance. However, an analysis of the history of European integration through the development of the EEC and EU shows that this concern is unfounded. Since the end of the Second World War, European Governments have consistently pursued a policy of ever-increasing union – not on the basis of ideology but on the basis of pragmatism. In the same way that the United States has recognised that a united and strong Europe is in their interests, so European leaders have striven towards a strategy of a converging foreign and security policy. American frustration with European defence is not so much concerned with fears of an autonomous Europe as it is with a divided and inefficient Europe that does not resource and organise its defence properly. In this light, it can be seen that the Lisbon Treaty’s provisions on the common foreign and security policy are modest and evolutionary. Even the ‘solidarity clause’, rather than posing a threat to NATO, acknowledges the primacy of that organisation, ‘which remains the foundation of ... collective defence and the forum for its implementation’. The other changes brought about by the Treaty should be welcomed by those who support a stronger Europe, contributing to global security and national interests in equal measure. Permanent structured cooperation and increased European defence procurement are two examples of developments whose purpose is to enable better use of scarce defence resources, and again meet US concerns about burden sharing with Europe. But most importantly, there is nothing in the Lisbon Treaty that undermines the essential intergovernmental nature of the European Union. The Lisbon Treaty even goes so far as to legislate for the decision by a member to withdraw from the Union. In attempting to establish a framework by which the member states can identify strategic interests and objectives of the Union, the Treaty is reflecting the reality of security strategy in the 21st Century for European countries, namely that unity


is paramount in meeting the challenges. The Treaty provides that framework, although the adoption of a common policy ultimately depends upon the unanimity of its member states. Unless and until all members conclude that their own national security interests require the weakening of the NATO, then the Alliance will remain the pre-eminent guarantor of security.
BIBLIOGRAPHY

BOOKS


JOURNALS


INTERNATIONAL TREATIES

Treaty of Alliance and Mutual Assistance between His Majesty in respect of the United Kingdom of Great Britain and Northern Ireland and the President of the French Republic, Dunkirk, 1947.


Treaty establishing the European Coal and Steel Community, Paris, 1951

Treaty Instituting the European Defence Community, Paris, 1952


Treaty Of Amsterdam, Amsterdam, 1997.


GOVERNMENT PAPERS


