

CONV 356/02

WG VII 8

NOTE

from:	Secretariat
to:	Working Group VII on "External Action"
Subject:	Summary of the meeting held on 15 October 2002

I. Opening of the meeting and introductory remarks by the Chair

1. Vice President Dehaene (Chair) set out the results of the previous meeting along the lines of CONV 342/02 (Summary of the meeting), and introduced the debate on efficiency of EU external action by underlining that adequate decision making and implementation procedures as well as the availability of financial and human resources were crucial to the effective pursuing of EU political and economic objectives on the international stage. With respect to decision making in CFSP, he invited members to reflect on possible extension of QMV, better use of constructive abstention and enhanced cooperation. He further recommended that the Group examine where and how the effectiveness of areas of community policy could be further improved.

II. Presentation by SG/HR Javier Solana

2. Javier Solana described the main tasks and activities he had been involved in since his appointment as HR three years ago, informed about political and institutional achievements in CFSP and ESDP, set out the lessons that could be drawn from the experience so far and presented a number of suggestions to enhance efficiency in CFSP ¹.

¹ Note: the text of Mr Solana's intervention has been circulated in WD 8 – WG VII.

3. The HR confirmed that political will was a key issue in CFSP and that EU actors should step up efforts to encourage convergence of views and forging of common positions. Political will and agreement among Member States paved the way for the HR to act effectively on the international scene. He highlighted the importance of continuity in foreign policy and indicated that success in diplomacy often depended on personal contacts and mutual confidence between interlocutors. Acting effectively on the international scene required the ability to react promptly to international developments. Decisions, especially in situations of crisis management, needed to be taken in real time. The possibility of sending special envoys/special representatives was very important. Clear division of labour and responsibilities in external action were essential as well as close cooperation between the different actors, notably the HR and the RELEX Commissioner. In this respect he recalled the excellent cooperation and relationship he had with Chris Patten. The HR added that solidarity among Member States and the pooling of resources in pursuit of a common goal were important to the effectiveness and credibility of the EU's external action. The EU should not shy away from tackling sensitive issues. Finally the HR insisted that cooperation with international organisations and main partners were essential to advancing EU views on the global stage.
4. The HR proposed a number of measures to enhance effectiveness in CFSP, some of which would imply Treaty change. These included: to reinforce the role of the HR in external representation; to give the HR the right of proposal; to have a permanent Chair for the external relations Council; to examine ways to extend the use of QMV and improve the use of constructive abstention and enhanced cooperation. In addition, he highlighted the benefits to be gained from pooling diplomatic expertise from different sources and called for more use of seconded diplomats in EU institutions, notably in the Council secretariat, which would help to bridge differences, enhance mutual confidence and increase the overall capacity of policy analysis and information sharing. On financing CFSP, he called for a system that corresponded, both in terms of volume and flexibility, to the EU's political ambitions and objectives on the global stage.

5. Members welcomed the HR's intervention, expressed support for his proposals and inquired about his views on i.a. possible splitting of the functions of HR and SG of the Council, the issue of a permanent President of the European Council, the possible merger of the functions of HR and RELEX Commissioner, financial issues and accountability, pooling of resources and confidence building.
6. With respect to decision making in CFSP, the HR said that the specific nature of foreign policy (not tangible, sensitive, not measurable, at the heart of sovereignty) made it very difficult to envisage decisions taken by voting. This was especially true when deployment of personnel was involved. However, as the risk of inertia would increase in an enlarged Union, there was a real need to look at solutions that would help the system to continue to function. QMV, constructive abstention, enhanced cooperation needed to be further explored. A greater sense of solidarity was needed among Member States.
7. On the linkage SG of the Council and HR, Solana recalled the reasons why it had been decided in Amsterdam to link both functions: to avoid creating a new administration, to give the HR control over human resources and to enshrine the function of HR in the institutional triangle. He would not recommend a de-linkage of both functions.
8. The HR said that he was neutral on the idea of a permanent President of the European Council; he believed however that other tasks than that of interlocutor for highest political level should be identified.
9. On the possible merger of HR/Commissioner RELEX, he pointed out in addition to the practical difficulty for one person to do both jobs, such a merger would be in conflict with the collegiality of the Commission. What the Union needed was a clear division of labour and responsibilities

between the two as well as cooperation mechanisms that would enhance synergies and maximise the benefits to be gained from both posts. He recommended, on the one hand, to consider the merging of services where possible, for example the offices in Geneva (to be brought under the responsibility of the Commission) and in New York (to be linked to the HR) and to make better use of pooling resources between institutions and with Member States.

10. On financing CFSP, the HR said that the situation was at times very embarrassing and frustrating. Large funds were available in the EU budget for financing external relations but financial means to underpin CFSP decisions were clearly insufficient. A new financing system was needed, one that could provide sufficient funds, allow rapid disbursement and guarantee accountability.

III. Presentation by Mr Pascal Lamy, Member of the European Commission

11. Commissioner Lamy described the experiences and lessons learnt in the field of the common commercial policy, outlined the reasons for which it was considered a success and proposed some possible further improvements. He finally presented his views on how to increase legitimacy and efficiency of EU external action ².
12. In the Commissioner's opinion, the ingredients of success in the common commercial policy were threefold: the existence of political will to act jointly in a framework of Community competence; a balanced and efficient decision making process with a clear division of responsibilities and a permanent dialogue between the Commission and the Member States; and a shared political platform, which had led to creating and fostering a European doctrine for commercial policy based on both openness and regulation.

² Note: full text of the presentation in WD 10 – WG VII.

13. The system was based on the community method, which produced mutual confidence, and worked very well. There was however still room for improvement. Firstly, exceptions to the rule of voting by QMV should be further reduced. Unanimity was still applied in the fields of services, investments and intellectual property. This was a considerable impediment for new agreements that the (enlarged) Union will be called to conclude in coming years in the WTO or bilaterally (e.g. with Mercosur), because trade negotiations in reality increasingly concerned those areas not covered by QMV and less and less trade in goods or the reduction of tariff barriers. The Commissioner hoped that the Convention would recommend the generalisation of QMV, including on external aspects of certain policy areas within Community competence (e.g. environment). The Commissioner further indicated that mixed agreements affected the credibility of the Union with the risk of delay inherent to the ratification process.
14. Secondly, Mr Lamy pointed out that the political sensitivity surrounding trade issues and the central role they played in the debate on globalisation, made it necessary to attach more importance to the visibility and legitimacy of EU actions in this field. In this respect, Mr Lamy called for more involvement of the EP in the decision making process, more transparency in the work of the Council, and a more structured dialogue with civil society.
15. On external action in general, Commissioner Lamy insisted that for the Union to have a successful and credible common external policy, there should first of all be a political will to act jointly on the global stage as well as a shared ideological platform. If we wanted the Union to have a coherent external policy, making use of the whole range of instruments, we should abolish the pillar structure and regroup competencies under one hat. According to Mr Lamy there was a broad consensus on principles and objectives of EU external policy, but it was essential to have an in-depth debate before common values could be translated into a genuine common policy. The forging of a common policy in all areas of external action could be developed step by step, but eventually it should lead to a single approach in decision making with a central role for the Commission as representative and defender of the common interest (simple co-ordination of positions was not enough). This included action and representation in multilateral fora. He acknowledged that different arrangements might be necessary for security and defence issues.

16. The following issues were raised in the debate. When asked about EU representation arrangements in the World Bank, IMF and G7/G8, the Commissioner said that the EU could in principle designate a representative to the board of the first two, while in the last case the President of the Commission spoke on Community matters. In reply to a question about who would be the "one mouth" representing the EU, Mr Lamy said that it was essential that the EU were represented by somebody whom the Member States trusted and he referred to the Commission's proposal in its Communication from May this year. He expressed doubts as to the idea of a permanent President of the European Council, as this raised questions of accountability.
17. Reacting to a statement that there was a clear difference between crisis management/diplomacy on the one hand and commercial negotiations on the other hand, the Commissioner said that crisis situations were also dealt with in the area of trade policy, and that the difference was one of intensity. The Commissioner was of the view that it was possible to extrapolate the experience from the common commercial policy to other areas. He considered that it was not useful to distinguish between "tangibles" and "intangibles" policy areas.

IV. Presentation by Mr Poul Nielson, Member of the European Commission

18. Commissioner Nielson described the Community action in development policy and presented his views regarding the development of EU external action ³.
19. Mr Nielson recalled that the EU (Community and Member States) was the largest provider of Official Development Assistance (ODA) in the world (more than 50%) and the Community alone accounted for 10%. The Commission/Community focussed its assistance on six priority areas: trade and development, regional integration, macro-economic policies and social sectors,

³ Note: The full text of Mr Nielson's intervention can be found in WD 9 – WG VII.

transport, food security and governance. According to Commissioner Nielson, the value added of development cooperation at EU level was its global outreach (present in all countries of the world) and that it provided former colonies with a partner (as opposed to former "mentor"). He regretted that the development cooperation policy was not binding on Member States and that it was often not sufficiently co-ordinated with other community policy areas.

20. The Commissioner recommended the following to the Convention : development policy should respond to medium to long term strategic objectives (as opposed to short term foreign policy agenda) on the basis of regional country strategies; Member States should co-ordinate more, including in multilateral framework; EDF should be integrated in general EU budget; arrangements for ACP cooperation /Cotonou Agreement should be changed (one legal personality paves the way for simplification and rationalisation).
21. EC Humanitarian aid represented 500 million Euro and actions in 60 countries (25% of the global humanitarian aid). EC and Member States humanitarian aid represented 50% of global aid. Mr Nielson highlighted burden sharing and political impartiality as the advantages of having humanitarian aid at EU level. He warned against attempts to link humanitarian aid to foreign policy considerations (including crisis prevention/crisis management).
22. Commissioner Nielson also presented his view of EU external relations in general and said that the inter-governmental nature of foreign and security policy had failed to deliver. The fundamental question was whether the EU wanted to be a genuine global player. If so, it needed a different system and better instruments. Mr Nielson described recent discussions on Eritrea and Zimbabwe, where, according to him, the EU's decision making procedures displayed a lack of clarity, coherence and efficiency. He recommended the following changes for the future : there should be one centre of gravity in external action, which is in control of the policy initiative and can call on all instruments; HR must have that right of initiative and should be "linked" to/part of the Commission; abolition of rule of unanimity in CFSP and replace by QMV (except for defence); scrutiny of all external action by EP as well as control by Court of auditors.

23. One member inquired how a HR placed in the Commission would gain the confidence of the Council and how the workload could be organised. The Commissioner replied that this would not be impossible as the President of the Commission, for example, also had the confidence of both institutions. He added that if there was a will among Member States to clarify and make the system more rational and accountable, a solution could surely be found regarding the architecture.

V. Presentation by Mr Pierre de Boissieu, Deputy Secretary-General of the Council of the European Union

After giving a reminder of the historical developments which led to the Maastricht and Amsterdam Treaties after 1989-1990, Mr de Boissieu pointed out the distinction between:

- the first pillar which is formed by all the competences conferred on the Community by the Member States (therefore restrictive) with the framework for exercising them, the definition of the institutional structure and their means of action, and
- the second pillar which offers the Member States the possibility to exercise in a complementary manner the competences which they wish to retain, namely all the competences which have not been transferred to the Community. The second pillar has therefore introduced an obligation of unlimited cooperation in an area in which the States continue to have competence.

The second pillar's instrumental centre of gravity is the common strategy aimed at pooling the States' instruments for a specific objective with a limited duration. Mr de Boissieu pointed out that while the common strategy was intended to allow implementation by a qualified majority, there had never been recourse to a qualified majority. The mechanism provided for by the Treaty is aimed at ensuring that joint actions decided on by the European Council define common assets and organise a certain form of allocation of roles according to the problems encountered by each State and the role it intends to play. However, Article 14(4) of the TEU, which states that "the Council may request the Commission to submit to it any appropriate proposals relating to the common foreign and security policy to ensure the implementation of a joint action", has never been applied in practice.

Mr de Boissieu emphasised that the Treaty has not been implemented in this connection and that consequently most of the Union's external actions have been based on Article 308 of the TEC, although the latter concerns the operation of the common market.

Mr de Boissieu then emphasised the lack of content of the common actions and strategies.

With regard to financing, Mr de Boissieu pointed out that the Council was subject to scrutiny by the Court of Auditors and that its budget was subject to the European Parliament's discharge although an agreement has existed between Parliament and the Council since 1970 which provides that neither institution calls into question the other's administrative budget estimate.

Mr de Boissieu explained that in 1990 the Council accounted for approximately 10% of the Community's total administrative expenditure. After implementing the CFSP and the third pillar, it now accounts for 8,5%. The Council employs 350 A staff following the effort made to set up the "Solana teams", whereas the Commission has more than 6 000 A staff.

He observed that financing by Member States according to special cost-sharing formulae had not worked out and asked members of the Working Group to reflect on this, on the grounds that if we want to act jointly, certain Member States must not be obliged to bear considerably heavier financial burdens than others.

Mr de Boissieu then pointed out that the CFSP budget itself is EUR 35 million pursuant to the Interinstitutional Agreement between the Parliament, the Council and the Commission, which is a small amount compared with the institutions' other expenditure.

He reaffirmed that the Commission must continue to manage the operational expenditure allocated to the CFSP which is borne by the Community budget, as the Council does not claim any executive competence. However, when the Union is involved in political negotiations, it should be possible to propose that certain funding actions should be geared to certain points of application rather than others.

Mr de Boissieu nevertheless regretted the lack of means confronting the Union with regard to external CFSP action and the cumbersome nature of the procedures enabling the CFSP budget to be increased when required by a specific action. He noted that in this context the EU was less effective than the UN, WEU, NATO or OSCE.

He deplored the scarcity of the appropriations entered in the budget for the Council's administrative expenditure, amounting to EUR 400 million or 8% of the institutions' administrative budget. As a result, the Council cannot pay for special representatives, the appropriations allocated to them being EUR 3,6 million. It is therefore the Member States which now pay 80% of that expenditure. Consequently only the larger Member States have special representatives as only they can afford them.

Mr de Boissieu would like the Council General Secretariat to have EUR 50 million for CFSP actions. He added that the Council would account for that expenditure and that a discharge would be given.

With regard to why the Treaty has not been applied, Mr de Boissieu pointed out that this was a question which had been put concerning many parts of the Treaty. With regard to transport policy, for example, for a period of 30 years the Community managed a token budget entry and summer time. The Treaty has hardly changed and now there is a transport policy. A transport policy came into being the day when, on the basis of the same Treaty, a transport policy was wanted. It was therefore not the Treaty itself that was at issue.

With regard to the CFSP, Mr de Boissieu considered that the greatest difficulty was not created by the relations between the Commission and High Representative Solana. The question is what should be done to ensure that policies match Member States' means. The Community's budget for external action is EUR 6 billion. The amount of Member States' budgets for external action is approximately EUR 70 to 80 billion. The proportion of action was therefore in the hands of the Member States.

As for the future Treaty, although its architecture will remain much the same as it is today Mr de Boissieu confirmed that first of all clear legal bases are necessary. Secondly, the aim and the objective of the action carried out jointly must be clarified. It may be joint action or else action based on a system of allocation of roles. This depends on the circumstances. Thirdly, it is necessary to establish what place should be held not by the qualified majority, but by the impossibility of blocking the operation of the system. The fourth point is finding a financial system which does not marginalise the Union because even official development assistance, which is the Union's main asset, only represents 15% of the official development assistance provided by the Member States of the Union. He repeated that the Union will only have a role to play if it is a

unifier and a catalyst rather than the sixteenth participant. The sixteenth participant is destined to remain marginal. How can the Union be transformed into a unifier, knowing that certain means will remain permanently national? He stated that EUR 35 million is not sufficient for operational expenditure borne by the budget. The High Representative must have a right to direct proposals concerning the political use of certain funds. Within this framework, this expenditure must be managed either by the Commission or by any agency that the Member States wish to set up to manage differentiated contributions. Mr de Boissieu wanted a start-up fund such as that at the WEU.

Finally, for administrative expenditure, he requested that the Council Secretariat be given the means to operate because it had set an example of moderation.

One member questioned Mr de Boissieu about the possible merger of the tasks of the High Representative and those of the Commissioner for External Relations. Mr de Boissieu stated that he was not in favour of merging the roles, pointing out that the real question was how to pool Member States' means for common objectives, apart from transferring competences to the Communities, which did not seem to be on the agenda.

Mr de Boissieu replied to one member questioning him about the need to clarify the texts of the Treaties to ensure better compliance that if the Union was to have a real external policy, integration of means and objectives was necessary, with genuine solidarity between Member States.

One member asked whether the CFSP required an intergovernmental method or if qualified majority voting was suited to the CFSP. Mr de Boissieu replied that the crux of the Community method was that rights and obligations were absolutely identical for all the Member States and that the real question here was how best to further the Union's interests by amending the Treaty so that one Member State not involved in an action to be taken is no longer able to veto it.

In reply to one member who asked him about the lack of ambition of the Union's external policy, Mr de Boissieu argued in favour of the Council defining the political objectives of external action while giving the Commission greater autonomy for managing programmes rather than setting up management committees. In addition, ex post impact studies should be more rigorous.

Mr de Boissieu's reply to questions concerning the Presidency of the Union and of the Council was that the choice of the Presidency of the Union would depend on the overall architecture. With regard to the High Representative presiding over the Council, Mr de Boissieu was in favour of that solution with the High Representative continuing to head the General Secretariat.

Questioned about the financial aspects of external action, Mr de Boissieu wanted a system enabling a better allocation of roles to be set up, bearing in mind that in this field new budgetary cost-sharing formulae must be devised, knowing that geographical and historical considerations are of great importance.

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