The Future of ESDP
A Conference Report:
“The (not so) Common European Security and Defence Policy“
Max-Planck Institute for Comparative Public Law and International Law, Heidelberg
19 – 20 September 2003

Edited by Annika Weidemann, Annette Simon

ISBN 3-00-013210-4
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Introduction

The Common European Security and Defence Policy (ESDP) reached an all-time low in the first couple of months of the year 2003 in the course of the Iraq crisis. However, while big differences of opinion and strategy became visible between the EU member states, some small successes were achieved in the shadow of the crisis. Are these success stories, like the take-over of the Macedonia Mission from NATO and of the International Police Task Force in Bosnia and Herzegovina from the UN by the EU, only fig leaves that are supposed to conceal insurmountable differences? Or is there hope for a real Common European Security and Defence Policy? Is there a recognition growing out of crisis that the European states can only face the challenges of the 21st century together or is the “puzzle Europe” falling apart into its pieces, so that of the EU only the Euro will remain?

The conference addressed these very burning questions and tried to develop an interdisciplinary and practical access to the topic “European Security and Defence Policy.” Presentations by various academics, journalists, and practitioners from EU, NATO, and the German Ministry of Foreign Affairs were central to the conference. Key aspects of ESDP were discussed by speakers, PhD students, and young professionals in several rounds of discussion and in a concluding panel discussion.

The conference aimed at PhD students and young professionals, who are working in the field of law, political science, history, or economics and who deal in their dissertation or in their work with European Security or Defence Policy or with more general issues of European law and politics.
Introduction

Organizers:
Annika Weidemann, Kiel University, Institute for Security Policy
Annette Simon, Max Planck Institute for Comparative Public Law and International Law, Heidelberg

Conference Venue:
Max Planck Institute for Comparative Public Law and International Law (MPI), Heidelberg
Address: Im Neuenheimer Feld 535, 69120 Heidelberg, Germany

Financial Support:
Zeit-Foundation, Hamburg and Haniel-Foundation, Duisburg
With additional support of the German National Merit Foundation and the Heidelberg Society for International Law

Conference languages:
English and German

Photos and Documentation Support:
Wilhelm Weerth

The organizers wish to thank all speakers and participants, the Max Planck Institute for Comparative and International Law, Heidelberg, Prof. Armin von Bogdandy, the Zeit-Foundation and the Haniel-Foundation, the German National Merit Foundation, and the Heidelberg Society for International Law and all others who helped to make the conference a success!

Frankfurt/Main, Hamburg
December 2003
Program

Friday, 19 September 2003

14:00 – 16:00: Sightseeing in Heidelberg, meeting point: Bismarckplatz, Heidelberg, entrance of the “Kaufhof” department store (optional)
Guide: Ebrahim Afsah, MPI

17:00: Presentation, Max Planck Institute, Sitzungszimmer
“European Foreign Policy and the Giscard-Constitution”
Introduction: Prof. Armin von Bogdandy, Director, MPI
Speaker: Prof. Stefan Griller, Director, Research Institute for European Affairs, Vienna University of Economics and Business Administration, Austria – this presentation is given in the framework of the Heidelberg Society for International Law

Reception at the MPI

20:00: Dinner, Kulturbrauerei Heidelberg, Leyergasse 6, 69117 Heidelberg
Dinner Speech
“The (not so) Common European Security and Defence Policy – a Review of a Turbulent Year and a Look at the Crystal Ball”
Speaker: Prof. Joachim Krause, Director, Institute for Security Policy, Kiel

Saturday, 20 September 2003 (Max Planck Institute, Sitzungszimmer)

9:00: Welcome and Introduction
Annette Simon and Annika Weidemann

9:10 – 9:30: Presentation 1
“An Overview of the Legal Basis of ESDP”
Speaker: Dr. Bernd Martenczuk, Legal Service of the European Commission, Brussels; author: Rechtsbindung und Rechtskontrolle des Weltsicherheitsrates (1996)
9:30 – 10.45: Presentation 2 and Discussion (also for Presentation 1)
Program

“The National Perspective – Germany and ESDP”
Speaker: Boris Ruge, German Foreign Office, Deputy Head of the ESDP Division
Chair: Annette Simon

10:45 – 11:15: Coffee Break

11:15 – 13:00: Presentation and Discussion
“The Who Takes Care of European Security? – EU and NATO: Competition or Cooperation?”
Presentation: Klaus Kleffner, Head of Defence Capabilities Section, Defence Policy and Planning Division, International Staff, NATO HQ Section, NATO HQ Brussels
Comment: Annalisa Monaco, ISIS, Brussels; Research Fellow at the University of East Anglia, Norwich, UK
Chair: Annette Simon

13:00 – 14:00: Lunch Break

14:00-14:30: Presentation
“The Future of ESDP and the Limits of Intergovernmentalism”
Speaker: Dr. Heiko Borchert, Head, Dr. Heiko Borchert & Co., Zurich, Switzerland, and Fellow, Düsseldorfer Institut für Außen- und Sicherheitspolitik (DIAS)

14:30 – 16:00: Panel Discussion
“Is there a Way from Cacophony to Harmony in ESDP?”
Participants: Annalisa Monaco, Klaus Kleffner, Joachim Krause, Heiko Borchert
Chair: Annika Weidemann
Zusammenfassung der Tagungsergebnisse


Prof. Krause vom Institut für Sicherheitspolitik in Kiel bereitete anschließend den politisch-theoretischen Hintergrund der aktuellen Differenzen in der ESVP. Er führte die unterschiedlichen sicherheitspolitischen Positionen in Europa auf drei Schulen zurück: auf der einen Seite sah er Großbritannien, das vorrangig die Anlehnung an den amerikanischen Partner verfolge, auf der anderen Seite Frankreich, das sich für ein eigenständiges Europa einsetze und dazwischen Deutschland, das zwischen diesen beiden Positionen zu vermitteln suche und dabei die Vorherrschaft des Völkerrechts betone. Insgesamt hob Prof. Krause hervor, daß es sich bei der ESVP nicht um eine „Joint“ sondern eine „Common“ Security and Defence Policy handele, die sich eben gerade aus verschiedenen nationalstaatlichen Ansichten zusammensetze und Differenzen in sich berge. Für eine „Joint Security and Defence Policy“
sei ein europäischer Staat erforderlich, der jedoch bisher mit der ESVP nicht angestrebt werde.

Einen Abriß der rechtlichen Verankerung der ESVP in der GASP gab Dr. Martenczuk von der Europäischen Kommission. Er skizzierte Aufgaben, Grundlagen und Grenzen der ESVP. Neben dem Europäischen Rat als zentrales Entscheidungsorgan wies er auf die 2001 geschaffenen beratenden Organe des Politischen und Sicherheitspolitischen Komitees und des Militärausschusses sowie den Militärstab hin. Aber genauso wie die Entscheidung im Rat letztendlich durch die Mitgliedsstaaten gefällt werde, sei die ESVP auch bei der Umsetzung aufgrund der wenigen eigenen Institutionen auf die Mitgliedsstaaten und die NATO angewiesen. Durch die unterschiedliche Bündniseinbindung der Mitgliedsstaaten seien dabei flexible Umsetzungsmechanismen aber auch die Einbindung von Drittstaaten erforderlich. Insoweit hob Dr. Martenczuk die im EU-Verfassungsentwurf vorgesehenen verschiedenen Formen der engeren Zusammenarbeit hervor, wies aber auch auf die daraus resultierende Spaltung der EU in verschiedene Gruppen von Mitgliedsstaaten hin. Für die Zukunft erklärte Dr. Martenczuk vor allem eine stärkere Übertragung der Entscheidungsfindung und Kontrolle über die Fähigkeiten von den Mitgliedsstaaten hin auf Gemeinschaftsmechanismen für erforderlich.

Anschließend skizzierte Boris Ruge, stellvertretender Leiter des ESVP-Referats im Auswärtigen Amt, die Rolle der ESVP in der deutschen Sicherheitspolitik. Als die beiden Pfeiler deutscher Sicherheitspolitik stellte er die Beziehungen zu den USA sowie die Einbindung in die EU heraus. Dabei betonte er, daß ESVP nicht für Verteidigung sondern für ziviles und militärisches Krisenmanagement stehe. Die ESVP sei zudem territorial auf Europa und seine Peripherie begrenzt. Die strategische Partnerschaft der EU mit der NATO wertete er als nicht einfach. Dabei sah er den aktuellen Streitpunkt der Einrichtung eines europäischen militärischen Hauptquartiers für EU-eigene Operationen ohne Rückgriff auf NATO-Strukturen nicht als Gefahr für NATO-Strukturen an. Für die Zukunft forderte Boris Ruge einen verstärkten Dialog über strategische Fragen mit den USA sowie größere deutsche Bemühungen um militärische und zivile Fähigkeiten zur Bewältigung von Aufgaben der ESVP.

Zuletzt präsentierte Dr. Heiko Borchert, Dr. Heiko Borchert & Co., Consulting and Research, Luzern, verschiedene Thesen zur Zukunft der ESVP. Er begrüßte den Entwurf einer europäischen Sicherheitsstrategie durch Javier Solana, Generalsekretär des ER und Hoher Vertreter der GASP, kritisierte jedoch, daß er den Einsatz der vorhandenen Instrumente offen ließe und nicht die engere Zusammenarbeit zwischen den Institutionen fordere. Weiterhin erklärte Dr. Borchert die Spezialisierung innerhalb der EU genauso wie das Zusammenführen von Ressourcen als unausweichlich für eine zukünftige ESVP. Dies erfordere mehr Supranationalität und Gemeinsamkeit auf europäischer Ebene. Für die Implementierung der ESVP sei die Schaffung einer Europäischen Rüstungsagentur ein wesentlicher Schritt, jedoch müsse gleichzeitig die Kooperation der Regierungen mit den Vertragspartnern verbessert werden. Die Umsetzung der ESVP im Rahmen der GSAP verlange ein gesamtheitlicheres Verständnis von Sicherheitspolitik, sowohl auf der Ebene der Gefahrenwahrnehmung als auch
der Umsetzung. Insoweit verwies Dr. Borchert auch auf die Notwendigkeit einer Harmonisierung nationaler Planungs- und Entscheidungsprozesse für die ESVP hin.

Die abschließende Panel Diskussion führte zu der Schlußfolgerung, daß die Entwicklung der ESVP Zeit brauche und eine tatsächlich gemeinsame Sicherheits- und Verteidigungspolitik letztendlich – jedenfalls nach außen – die Staatsqualität der EU erfordere. Es bestand insoweit aber ebenfalls Einigkeit darüber, daß für die EU, wenn sie nicht in Bedeutungslosigkeit versinken wolle, an dieser Entwicklung kein Weg vorbei führe.
Stefan Griller:
Europäische Außenpolitik unter der Giscard-Verfassung

Ausgewählte Aspekte

• Die Ausgangslage
• Institutionenreform
  – Europäisches Parlament
  – Europäischer Rat
  – Rat
  – Kommission
  – Außenminister
  – Resümee
• (Außen-)Kompetenzen
• Handlungsformen
• Differenzierte Integration
• Kohärenz (GASP – auswärtiges Handeln insgesamt)
• Außenbeziehungen - Resümee

Die Ausgangslage

• Jämmerliches Bild der Effizienz und Kohärenz
• Erweiterung auf 25 Staaten
• Laeken (2001): „mehr Europa in außen-, sicherheits- und verteidigungs politischen Fragen“; „Wie kann auch die Kohärenz der europäischen Außenpolitik vergrößert werden?“
Europäisches Parlament
Demokratie - QM

- Gestärkt insb durch die deutliche Ausweitung des „normalen Gesetzgebungsverfahrens“ (Mitentscheidung)
- Repräsentative Demokratie als grundsätzliche Arbeitsweise I-45(1)
- Wahlrecht regelt:
- Stärkung durch Vermehrung von QM und Vereinfachung der QM-Erfordernisse im Rat

Europäisches Parlament
Demokratie - QM

- Aufhebung der Differenzierung zwischen obligatorischen und nichtobligatorischen Ausgaben mit Letztentscheidungsrecht des EP III-310; aber Sondervorschriften GASP III-215
Europäisches Parlament
Demokratie - QM

- (Aber: wie bisher Rat (oft einstimmig) ohne Mitentscheidung
  EP: zB Pässe, Aufenthaltstitel üä, Kommunalwahlrecht,
  Beihilfen bei außergewöhnlichen Umständen, (in)direkte
  Steuern, Sprachenregelung bei Schutz geistigen Eigentums,
  Ablösung des Prot über übermäßiges Defizit, Umweltschutz
  (wie bisher, aber mit Passerelle ER), Familienrecht, operative
  Zusammenarbeit Polizei, polizeiliche Tätigkeit in anderen MS)
- Abschluss von Abkommen im „Regelfall“ bloße Anhörung EP
  - aber Zustimmung in Bereichen der Gesetzgebung III-227(7);
  Rat einstimmig in GHP-Abk für Dienstl und GeiEi - kulturelle
  und audiovisuelle DL III-217(4)
- Passerelle für den ER (I-24(4)) zur QM oder O Gesetzgebung
- GASP: hören, berücksichtigen, fragen, empfehlen I-39, III-205
- Insgesamt: Stärkung des EP mit Schönheitsfehlern

(Europäischer) Rat – Vorsitz“konzept“

Einrichtung ER

Einfacher? – effizient(er)? – klares Regierungskonzept?
Oder eher ein „Denken in Präsidentschaften“?
Europäischer Rat

- Verrechtlichung
- Zusammensetzung: Staats- und Regierungschefs, ER-Präsident, Kommissions-Präsid; Außenminister nimmt teil
- Präsidentschaftsregelung (E: „Council Chair“)
  - Aufwertung des ER gegenüber Kommission und Außenminister, außer bei (möglicher) Personalunion
  - Kein Stimmrecht des Präs (auch für Präs Kom) I-24(5)
- Grundsätzlich: Konsensprinzip I-20(4) [Differenz zu Abstimmung?]
- Deutliche Kompetenzausweitung des ER
  - Viele verfassungsunmittelbare Einzelbefugnisse (sogleich)
  - umfassende Leitlinienkompetenz für alle Bereiche des „Außenhandelns“; seine Beschlüsse werden „durchgeführt“ III-194(1)
- Insgesamt deutliche Aufwertung

Rat

- Veränderung der Zusammensetzung(en) I-23
  - Allgemeine Angelegenheiten
  - Gesetzgeber (+2 andere Minister)
  - Auswärtige Angelegenheiten
  - Weitere nach Maßgabe ER-Beschluss
- Erhöhung der Zahl der Fälle von QM im Rat (häufig verbunden mit Gesetzgebungsverfahren)
- Vereinfachung der QM-Erfordernisse: ab 1. 11. 2009 Mehrheit der MS (nicht gewichtet!) + 3/5 der Bevölkerung [Erschwerung (2/3 MS) wenn nicht auf Initiative der Kommission oder des Außenministers]
(Europäischer) Rat
Sonderfall Beschlussquoren GASP

- I-39(7) Grundsatz Einstimmigkeit
- I-39(8), III-201(3) ER kann einstimmig QM beschließen „in anderen als den in Teil III der Verfassung genannten Fällen“
- III-201(1) konstruktive Enthaltung bleibt
- III-201(2) ausnahmsweise QM
  - Aktion oder Standpunkte (Rat) auf Grundlage eines ER-Beschlusses über strategische Interessen und Ziele
  - Rat auf Ministerinitiative, die auf Auftrag des ER zurückgeht
  - Durchführung Aktion oder Standpunkt
  - Ernennung Sonderbeauftragter

Kommission

- Präsident, Außenminister und 13 „Europäische Kommissare“ als Mitglieder des Kollegiums
- Ab 1. 11. 2009 System „gleichberechtigter“ Rotation (ER beschließt)
- Weitere „Kommissare“ ohne Stimmrecht (nicht Kommissionsmitglied) aus „allen anderen“ MS ernannt durch Kommissionspräsidenten (alle brauchen gemeinsam Zustimmung des EP) - eine der strittigsten Bestimmungen
- Initiativmonopol nur bei Gesetzgebungsakten I-25(2)
- Insgesamt Schwächung der Kommission
Kommission
Wahl (?) des Präsidenten

QM ein Kandidat
(„Berücksichtigung“
der Wahlen zum EP) (I-26)

„Das EP wählt diesen
Kandidaten mit der Mehrheit
seiner Mitglieder.“ (I-26).

Kommission
Initiativrecht Außenbeziehungen

1. GASP (I-39(7),
   III-200)
   MS
   Minister
   Minister + Kom
   = „mit Unterstützung“,
   wenn er dies wünscht

2. GASP+andere
   (III-194(2))
   Gemeinsame Vorschläge
   Minister + Kom
   ER beschließt. Beschlüsse
   werden durchgeführt
   III-194(2)

3. Andere, zB GHP
   „Gemeinschaftsmethode“
   III-217: Kommission

Partei-Politisierung der Kommission abgewendet?
Der Außenminister
mit dem “doppelten Hut”

- Ernennung durch den Europäischen Rat (QM)
- Ernennung mit Zustimmung des Kommissionspräsidenten
- Einer der Vize-Präsidenten der Kommission
- Verantwortlichkeit: Misstrauensvotum durch EP?
- Gewaltentrennung? Institutionelles Gleichgewicht? (Amtsdauer?)
- Stärkung der Effizienz? – Gegensatz von GASP und anderen Politiken besteht fort

Der Außenminister
im Institutionengefüge

Der Präsident des ER nimmt „auf seiner Ebene“ die Außenvertretung der Union in Angelegenheiten der GASP wahr (I-21(2))

Der Außenminister „leitet“ die GASP. Er trägt durch seine Vorschläge zur Festlegung der GASP bei. Als Vize-Präsident der Kommission ist er mit den Außenbeziehungen und der Koordination der „übrigen“ Aspekte des auswärtigen Handelns betraut (I-27)
Institutionen: Resümee
Kriterien der Reform?

- Effizienz und Transparenz – ja, ABER
- Nur in einer dienenden Funktion zu den leitenden Verfassungsprinzipien, insb: Demokratie, horizontale und vertikale Gewaltentrennung, Rechtsstaatsprinzip
- Ein “designer approach” (Helen Wallace) – klare Orientierung am „Modell“ Supranationalität oder Intergouvernmentalkalität (“consortium” model) – ist nicht zwingend
- „Evolutionärer Ansatz“ ist durchaus akzeptabel, solange die leitenden Prinzipien beachtet werden
- Aber: sind irgendwelche leitenden Prinzipien erkennbar? Wurden sie diskutiert im Konvent? Wurden sie respektiert?

Institutionen: Resümee

Konsequenzen (Optionen) hinsichtlich Inhalt, Instrumente, Verfahren und Organe:

- Keine Änderungen
- Ausdehnung der „Gemeinschaftsmethode“
- „Intergouvernementalisierung der Gemeinschaft“
Institutionen: Resümee

EU (1.+2. Säule)
- Stärkere Intergouvernementalisierung?
- GASP ist ? Kompetenz (I-15)
- Daher: keine Gesetzgebung (=„Gemeinschafts-
  methode”), aber: verbindliche Beschlüsse in der GASP!
- Kohärenzgebot zwischen GASP und anderen Politiken
  letztlich kann der ER entscheiden
  ➔ ER neuer dominanter Akteur für gesamten Bereich
  der Außenbeziehungen
- Europäischer Außenminister mit dem „Doppel-Hut“

Institutionen: Resümee
Institutionelles Gleichgewicht?

EU (1.+2.+3. Säule)
- Leichte Verstärkung der Intergouvernementalen
  Strukturen via Rat und Europäischen Rat
- Falsche Kategorien? Stattdessen Neuer
  Supranationalismus auf Kosten der Kommission
  und des EP? ➔
  vertretbare Position angesichts der
  vorgeschlagenen institutionellen Regeln
Institutionen: Resümee

Demokratie?

Die Verfassung, die wir haben ... heißt Demokratie, weil der Staat nicht auf wenige Bürger, sondern auf die Mehrheit ausgerichtet ist.

Thukydides, II, 37

Notre Constitution ... est appelée démocratie parce que le pouvoir est entre les mains non d'une minorité, mais du plus grand nombre.

Es ist die Grabrede des Perikles

Sie endet so: „Geht nun nach Hause heim, nachdem ihr, jeder den Seinen, sattsam beklagt habt!"

Institutionen: Resümee

Demokratie? — Und Thukydides selbst?

• „Wir leben nämlich unter einer Verfassung, ... Der Name, den sie trägt, ist zwar der der Volksherrschaft, weil die Macht nicht in den Händen weniger, sondern einer größeren Zahl von Bürgern ruht; ihr Wesen aber ist, dass ...“ [Nichtdiskriminierung im Staatsdienst]

• Passt vielleicht sogar besser?

• Jedenfalls
  – Mehrheitsprinzip und Parlamentarismus („input-orientiert“) keineswegs durchgehend realisiert! Überhaupt nicht in der GASP! Aber sonst erheblich ausgebaut!
  – Diskutabel wäre eine „output-orientierte“ Lesart des Thukydides, aber nur in der deutschen Fassung
Institutionen: Resümee
Gewaltentrennung?

- Prämisse: Leitprinzip jeder Institutionenreform va aus (national) verfassungsrechtlichen Gründen, jedoch:
- Außenminister mit dem doppelten Hut
- ER bestimmt weitere Zusammensetzungen des Rates
- Personalunion von Präs Kommission und Präs-ER ist möglich (I-21) – entgegen früheren Entwürfen
  - Wirklich? Ist der Kom-Präs nicht auch „Europäischer Kommissar“ und ER-Präsident ein Beruf i.S von III-251(2)?

Institutionen: Resümee
Rechtsstaatlichkeit? Der Schatten der Säulen
Institutionen: Resümee
Rechtsstaatlichkeit? – ER gerichtsfrei?

- III-194 Europäische Beschlüsse – strategische Interessen und Ziele für alle (!?) Außenbeziehungen
- III-159 strategische Leitlinien für legislative und operative Programmplanung im Raum der Freiheit, der Sicherheit und des Rechts
- I-23(3) weitere Zusammensetzungen des Ministerrats
- I-23(4) Festlegung „der gleichberechtigten Rotation“ des Vorsitzes im Rat
- I-24(4) Passerelle zum ordentlichen Gesetzgebungsverfahren
- I-25(3) Rotationssystem für die Kommission
- I-58(2) Feststellung einer Werteverletzung (III-276: nur Verfahren kontrollierbar)
- Konsequenz der Beseitigung der Säulenstruktur:
  - Bindendes Recht! Rechtsstaatliches Defizit wegen III-270 und III-282
  - Absolute Nichtigkeit (Alternative) als rechtsstaatliches Konzept?
  - Vorabentscheidung als Ausweg? III-274 (Verhältnis zu III-270 und III-282?)

(Außenn-)Kompetenzen

- I-11 Kompetenztypen
  - Ausschließliche
  - Geteilte
  - Koordinierung, Ergänzung oder Unterstützung
  - „sui generis“ Regel für Wirtschafts- und Beschäftigungspolitik sowie GASP

- Ausschließliche und unterstützende taxativ – geteilte demonstrativ, Auffangkorb nach Maßgabe Teil III
- Subsidiaritätsprinzip va durch Einbindung nationaler Parlamente (Prot) in der Durchsetzung leicht gestärkt I-9(3)
- Klärung, keine wesentliche Änderung, Vereinfachung fraglich
(Außen-)Kompetenzen
samt Unklarheiten

• GASP-Ausnehmung I-15
  Begründung dürftig, Konsequenz weitreichend

• Ausschließliche Zuständigkeiten I-12
  - Euro-Währungspolitik
  - Gemeinsame Handelspolitik (zur Gänze ausschließlich!) inkl. DL-Abk und GeiEi-Abk; aber: „keine Auswirkungen auf die Kompetenzabgrenzung“ zwischen EU und MS; Beachtung von Harmonisierungsvorschriften III-217(5)
  - Zollunion
  - Abkommen: Verschaffung ausschließlicher Kompetenz durch Sekundärrecht möglich – Änderung der Bedeutung in der Judikatur durch Formulierung? Was ist Grundlage für Sekundärrecht? I-12(2)

• Geteilte Zuständigkeiten I-13
  - Wirtschafts- und Zusammenarbeit III-221? Ergänzend?
  - Restriktive Maßnahmen III-224? Änderung gewollt?
  - Entwicklungszusammenarbeit, Humanitäre Hilfe I-13(4), III-218 ff

Kompetenzen und Handlungsformen

• Gesetzgebungsakte
  - Europäisches Gesetz
  - Europäisches Rahmengesetz

• Rechtsakte ohne Gesetzescharakter:
  - Europäische Verordnung
  - Europäischer Beschluss – Einfallspforte für Atypisches, insb GASP-Aktionen und Standpunkte III-195(3)
  - Empfehlungen und Stellungnahmen (rechtlich nicht bindend)

• Erschöpfende Auflistung der Handlungsformen?
  - I-32 (2): Grundlage für atypische Rechtsakte
  - III-88: „Maßnahmen“ für Euro-Länder
  - III-196: GASP-Leitlinien
  - III-303: bindende interinstitutionelle Vereinbarungen
  - III-220-223: Internationale Übereinkünfte
Kompetenzen und Handlungsformen

- Unterschiedliche Arten von Gesetzgebungsverfahren (I-33): „Normales“/ Besondere (insb. Raum der Freiheit, der Sicherheit und des Rechts)
- Abgrenzung zwischen legislativen und exekutiven Maßnahmen: Gesetzgebungsakte sind nach (Gesetzgebungs-)Verfahren und Organ definiert, nicht inhaltlich
  ➔ kein Legalitätsprinzip (ev bei Delegation an Kommission)
- Unklare Abgrenzung delegierte Verordnungen – Durchführungsrechtsakte: Auswirkungen auf Normenhierarchie sowie vertikale Kompetenzverteilung
- Besonderes gilt für die Durchführung der GASP und der Gemeinsamen Verteidigungspolitik (keine Gesetzgebungakte, aber Beschlüsse! I-39, I-40), und zur Verwirklichung des Raums der Freiheit, der Sicherheit und des Rechts (I-41)

Differenzierte Integration

- Verstärkte Zusammenarbeit I-43, III-325
  – Entscheidung durch Kommission
  – Einstimmige Entscheidung durch Rat in der GASP
- Mission durch Gruppe von MS I-40(5), III-211
  – Einstimmige Übertragung durch Rat
- Strukturierte Zusammenarbeit I-40(6), III-213
- Engere Zusammenarbeit bei Verteidigung I-40(7), III-214
Kohärenz (GASP – auswärtiges Handeln insgesamt) – Ausgangslage

Reformziel: effizienter, kohärenter, transparenter

Kohärenz - Überlappungen

- Konsequenzen für „Überlappingsproblem“
  - Aber im Prinzip: alles inkl Binnenmarkt
  - Zwar allgemeine Kohärenzpflcht für Rat, Kommission und Minister III-193(3)
  - Aber umfassende Leitkompetenz des ER für alle Bereiche des „Außenhandelns“; Beschlüsse über „strategische Interessen und Ziele“ werden „durchgeführt“ III-194(1)

⇒ Neue Dominanz des Europäischen Rates in allen Außenbeziehungen
Kohärenz – Lösung des „Vorrangproblems“?

Artikel III–209

„Die Durchführung der Gemeinsamen Außen- und Sicherheitspolitik lässt die in den Artikeln I-12 bis I-14 und in Artikel I-16 aufgeführten Zuständigkeiten unberührt. Ebenso lässt die Durchführung der Politik gemäß den genannten Artikeln die Zuständigkeit nach Artikel I-15 unberührt. Der Gerichtshof ist für die Kontrolle der Einhaltung dieses Artikels zuständig.“

⇒ Problem erkannt, ungelöst gelassen

Außenbeziehungen - Resümee

• Keine Harmonisierung von Organen, Verfahren und Rechtsakten zwischen GASP und anderen Politikbereichen
• Einstimmigkeit (=Vetorecht) bleibt Grundsatz in der GASP – Handlungsfähigkeit verbessert?
• Via ER eher Ausdehnung der Mechanismen der GASP auf andere Gebiete des auswärtigen Handelns als umgekehrt
• Außenminister kann dies nicht kaschieren („Schönwetterkohärenz“)
Qualitätssprung? Ein neuer Staat?

- Vom „Verfassungsvertrag“ zum „Vertrag über eine Verfassung für Europa“ ➔ „Verfassung“, zB in I-17
  - Vom Gesamtakt der Integrationsgewalt (ipsen) zum Doppelcharakter des Vertrags? Staatsgründung durch Vertrag?
- Vorrangprinzip ausgeweitet (I-10(1)) - Invalidation auch bei nicht unmittelbar anwendbarem Unionsrecht?
- IV-7(2) Vertragsänderungen: Initiativrecht auch für EP; Konventsverfahren + IGC („um die ... vorzunehmenden Änderungen zu vereinbaren“) + Ratifikation aller
  IV-7(4) nach 2 Jahren und 4/5 Ratifizierungen ➔ Befassung des Europäischen Rats ➔ ?

Qualitätssprung? Ein neuer Staat?

- Vierteilung der Verfassung: Zuordnung teilweise willkürlich (zB GASP, Organe, Verfahren!) ➔ Hierarchie nicht gewagt („Souveränität“) (IV-7); wäre prinzipiell sinnvoll, aber bei dieser Teilung jedenfalls nicht für ganze Teile möglich! „Information“ (Nummerierung, Konventspublikation) krass irre führend!
- Völkerrechtssubjektivität der MS stark beschränkt durch III-217 (4) (ausschließliche Kompetenz!) verbunden mit der neuen Jud (Open Skies)
- Insgesamt: kein entscheidender Schritt – Schwebezustand zwischen Staatenbund und Bundesstaat bleibt erhalten; Willensakt zur Staatsgründung fehlt nach wie vor
Außenbeziehungen - Resümee

Economist 21 June 03: Where to file Europe’s new constitution?: “An intergovernmental conference will now take up the proposal. The Union's governments should take it up for exactly as long as it takes to dump it in the nearest bin.”

Außenbeziehungen - Resümee

Angestrebt waren Verbesserungen bei Effizienz und Kohärenz (und Transparenz, Vereinfachung, Konsolidierung, Demokratie?)

Trotz aller Fortschritte: Bis Rom wird es nicht zu schaffen sein

!
Bernd Martenczuk*:  
The Legal Bases of ESDP

I. What is ESDP?

1. ESDP is an integral part of CFSP, i.e. the Union's 2nd pillar. Except specific exception, the principles, institutions and procedures of CFSP therefore also apply to ESDP. For this reason, ESDP shares the intergovernmental character of CFSP.

2. Legal Basis of ESDP, Art. 17 EU: CFSP comprises "all questions relating to the security of the Union, including the progressive framing of a common defence policy". No further definition of "security" or "defence" in the Treaty. Art. 17.2 EU: ESDP includes the "Petersberg tasks" - humanitarian and rescue tasks, peacekeeping tasks and tasks of combat forces in crisis management.

3. Abstract definition of ESDP difficult. Positive core: defence, operations having military implications. Negative limit: Article 47 EU - CFSP, and by implication ESDP, must not encroach on first pillar. Grey area notably with respect to Petersberg tasks, since EC (e.g. development cooperation) may also contribute to some of the objectives of ESDP.

II. ESDP Institutions and Decision-Making

4. As in CFSP, Council is central decision-making organ. The instruments of CFSP (Common positions, joint actions) and procedures also apply to CFSP. Decision making is almost w/o exception by unanimity; the limited possibilities foreseen for QMV in CFSP do not apply to "decisions having military or defence implications" (Art. 23.2 EU).

5. In order to accommodate the special needs of ESDP (speed of decision-making), special structures have been created within the Council (Council decisions of 21.1.2001):

   - PSC/COPS: based on Art. 25 EU. Has overall responsibility for CFSP, including ESDP. Monitors, examines, supervises (notably MC), and reports to Council. Council may delegate decision-making powers to it: this has been done for the decisions necessary for the political control and strategic operation of the EU missions in Macedonia and Congo. Exceptionally, notably in times of crises, COPS can be presided by HR.

* Member of the Legal Service of the European Commission. The article expresses the personal views of the author only, and does not necessarily reflect the position of the European Commission.
• EUMC: Responsible for providing PSC with military advice and recommendations. Composed of Chiefs of Defence, represented by military representatives. Presided by Chairman appointed by the Council for a term of three years.

• EU Military Staff. Part of the Council SG. Composed of Military Personnel seconded by MS to Council SG. Mission is to perform analytic and strategic tasks for implementation of ESDP and assist in implementation of policies as directed by EUMC.

6. In all of CFSP, Commission is "fully associated" (Art. 27). This also applies to ESDP. Full participant in the work of the COPS. Status in EUMC initially less clear. It is becoming more accepted that the Commission can and should also participate here.

7. Parliament: no role in ESDP. Court of Justice: in principle no jurisdiction, except for the question of the delimitation of 1st and 2nd pillars (Article 47 EU).

IV. ESDP Capabilities and Implementation

8. Current own EU defence capabilities very limited. Only significant assets the EUMS and assets taken over from WEU: Satellite Centre, Institute of Strategic Studies.

9. Otherwise, EU needs to rely on MS, NATO, or other resources to conduct operations. Bosnia, Macedonia and Congo operations provide examples:

   • Bosnia and Herzegovina: not a military, but a police mission. Composed of Police Officers seconded by MS. Head of Mission appointed by Council.

   • Macedonia: Operation uses NATO Assets (made possible through EU-NATO arrangement, in particular on information safety). EU operational headquarters is at SHAPE.

   • Congo: mainly MS military assets, no NATO involvement. France acts as "Framework Nation". Operational Headquarters are in Paris.

IV. Variable Geometry, Third Country Participation, Financing

10. Special feature of ESDP: diversity of Member States (neutrality, NATO or WEU Member or not; special position of DK). These special characteristics are respected by ESDP (Art. 17.1 EU). Accordingly, higher need for variable geometry also in implementation. In BiH, all MS participated, in Macedonia, all but two (DK and IRL), and in Congo, only a minority.

11. Openness of ESDP: in all three operations, EU has permitted third country participation (candidate countries and others).
12. Art. 28.5 EU: rules out financing from budget for actions "having military or defence implications". Alternatives: either "costs lie where they fall", or need to create separate financing mechanisms.

V. The Constitution and ESDP

13. Overall changes affecting CFSP: Legal Personality of the EU, abolition of the Pillar structure; creation of a foreign minister uniting the functions of HR and External Relations Commissioner.

14. However, CFSP is maintained as a special policy area of the Union preserving essentially its intergovernmental structures and procedures. Within CFSP, there is now a separate chapter on ESDP (Article I-40 and III-210 to III-214. The changes to CFSP are rather limited; main institutional characteristics are maintained. Noteworthy are nonetheless the following changes:

- Updating of the Petersberg tasks through inclusion of disarmament, military assistance, conflict prevention, stabilisation, fight against terrorism (Article III-210). Risk of overlap with certain first-pillar activities (conflict prevention).
- Creation of European Armaments Agency in charge of analysis research and development with respect to armaments. Problem: intergovernmental status of agency, linkage with Commission (particularly important because of internal market implications of defence industry).
- Stronger possibilities for "reinforced cooperation" between MS: Article III-211: Council may entrust an operation to groups of Member States; Article III-214: MS can agree to a reinforce cooperation in the area of defence. In this case, there will also be a limited "solidarity clause" - Member State can ask assistance of other Member States in case of aggression.
- Stronger role of EP, which now must be regularly consulted on major aspects and fundamental choices of ESDP (Art. I-40.8).

VI. Conclusion

15. ESDP is - and remains - the most intergovernmental policy area of the Union.

- decision-making is dominated by MS, acting by unanimity; reduced role for Commission; no role for other institutions;
- capabilities are largely provided and controlled by MS; Community or Union instruments and budget financing play little role.
• fragmentation of MS, who therefore tend to act in groups rather than as a Union.

16. ESDP is therefore still far from where it could reach its full potential. A truly efficient ESDP would require:

• decision-making more strongly along the line of the Community method (notably: QMV, stronger role for the Commission);

• more immediate control by the Union of military capabilities.

17. However, ESDP still remains in its very beginnings. Considerable progress has been made since the Cologne European Council in 1999. ESDP is on the way to becoming a truly efficient tool of the Union, which will be a viable alternative to military action by Member States acting alone. However, until this time, some way still has to be made.
Ich möchte in meinem kurzen Vortrag folgende Themen ansprechen:

- Parameter deutscher Sicherheitspolitik
- Grundlagen der ESVP
- Gegenwärtiger Stand der ESVP
- Fortentwicklung der ESVP
- Kernpunkte der ESVP aus Sicht der Bundesregierung

**Parameter**

Die ESVP ist nur ein Aspekt deutscher Sicherheitspolitik. Es erscheint deswegen angezeigt, einleitend auf die Parameter einzugehen, die für unsere Politik ausschlaggebend sind. Dabei sind vor allem zu nennen:

- **Europäische Integration:** Deutsche Sicherheitspolitik wird zunehmend im Rahmen der EU formuliert und umgesetzt. Die Gemeinsame Außen- und Sicherheitspolitik der Union (GASP) und die ESVP als ihr integraler Bestandteil sind in bezug auf Dichte der Abstimmung und Substanz stetig wichtiger geworden.

- **Globalisierung:** Die transnationale Vernetzung von politischen, gesellschaftlichen und wirtschaftlichen Akteuren ist eine Grundtatsache veränderter internationaler Beziehungen und sie gewinnt weiter an Bedeutung.

- **Neue Bedrohungen:** Das Phänomen eines weltweiten Terrorismus und die Verbreitung von Massenvernichtungswaffen stehen heute im Mittelpunkt der Sicherheitspolitik.


Für die deutsche Außenpolitik gilt damit: Europäische Einigung und transatlantische Partnerschaft sind auch in Zukunft wichtigste Säulen deutscher Außen- und Sicherheitspolitik.

**Grundlagen der ESVP**

Der Vertrag von Amsterdam (vereinbart 1996, in Kraft getreten Anfang 1999) enthielt in seinem Artikel 17 Absatz 1 bereits folgende Aussage: „Die gemeinsame Außen- und Sicherheitspolitik umfasst sämtliche Fragen, welche die Sicherheit der Union betreffen, wozu auch die schrittweise Festlegung einer gemeinsamen Verteidigungspolitik gehört, die zu einer gemeinsamen Verteidigung führen könnte, falls der Europäische Rat dies beschließt.“


Als Geburtsstunde der ESVP darf der Europäische Rat Köln vom Juni 1999 gelten. Es ist jedoch nicht zu bestreiten, dass der britisch-französische Gipfel von St. Malo vom November des Vorjahres und die dort zum Ausdruck gekommene Neubestimmung der britischen Haltung eine wichtige Voraussetzung für die Ergebnisse von Köln waren. Die nachfolgend zitierte Passage der Schlussfolgerungen des Europäischen Rats Köln lehnt sich eng an die Sprache des Gipfelkommuniqués von St. Malo an:

Beim Europäischen Rat Helsinki im Dezember 1999 präzisierten die Staats- und Regierungschefs der Union die Zielsetzung der ESVP:

„Der Europäische Rat unterstreicht seine Entschlossenheit, die Union in die Lage zu versetzen, autonom Beschlüsse zu fassen und in den Fällen, in denen die NATO als Ganzes nicht beteiligt ist, als Reaktion auf internationale Krisen EU-geführte militärische Operationen einzuleiten und durchzuführen. Dabei ist unnötige Duplizierung zu vermeiden. Dieser Prozess impliziert nicht die Schaffung einer europäischen Armee."

In Helsinki formulierte die Staats- und Regierungschefs auch das sogenannte „European Headline Goal“, also ein Leitziel für die Entwicklung relevanter militärischer Fähigkeiten: „Spätestens im Jahre 2003 müssen die Mitgliedstaaten im Rahmen der freiwilligen Zusammenarbeit bei EU-geführten Operationen in der Lage sein, innerhalb von 60 Tagen Streitkräfte im Umfang von 50.000 bis 60.000 Personen, die imstande sind, den Petersberg-Aufgaben in ihrer ganzen Bandbreite gerecht zu werden, zu verlegen und dafür zu sorgen, dass diese Kräfte für mindestens ein Jahr im Einsatz gehalten werden zu können."

Der Europäische Rat legte auch die Einrichtung „neuer politischer und militärischer Gremien und Strukturen“ fest. Und er forderte die Entwicklung von „Regelungen für eine umfassende Konsultation und Zusammenarbeit zwischen der EU und der NATO“. 
Die NATO hatte ihrerseits beim Washingtoner Gipfel im April 1999 ein Angebot an die EU formuliert, das auf der bereits bestehenden Zusammenarbeit zwischen NATO und Westeuropäische Union (WEU) aufbaute und unter dem Stichwort „Berlin Plus“ bekannt ist:

„Auf der Grundlage der vorgenannten Prinzipien und aufbauend auf den Berliner Entscheidungen [von 1996] sind wir daher bereit, die erforderlichen Vorkehrungen zu definieren und anzunehmen, um der EU den Rückgriff auf die kollektiven Kräfte und Fähigkeiten der Allianz zu erleichtern, und zwar für Operationen, an denen sich die Allianz als Ganzes militärisch nicht beteiligt. Der Ständige NATO-Rat wird diese Vorkehrungen billigen, die den Erfordernissen von NATO-Einsätzen und der Kohärenz der NATO-Kommandostruktur Rechnung tragen werden; sie sollten folgende Punkte umfassen:

a) den gesicherten EU-Rückgriff auf Planungskapazitäten der NATO, durch die zur militärischen Planung für EU-geführte Einsätze beigetragen werden kann;
b) die Annahme der Verfügbarkeit für die EU von vorher identifizierten NATO-Fähigkeiten und gemeinsamen Mitteln zur Nutzung in EU-geführten Operationen;
c) die Identifizierung einer Reihe von Optionen für ein europäisches Kommando für EU-geführte Operationen, die Weiterentwicklung der Rolle des DSACEUR [stellvertretender Oberbefehlshaber der NATO in Europa], damit er seine europäischen Verantwortlichkeiten uneingeschränkt und effektiv wahrnehmen kann;
d) die weitere Anpassung des Verteidigungsplanungssystems der NATO, um die Verfügbarkeit von Kräften für EU-geführte Operationen umfassender einzubeziehen ...

Aktueller Stand

Es ist keine Übertreibung, wenn man feststellt, dass die Summe des seit 1999 Erreichten einem Quantensprung entspricht. Bis 1999 hatte die EU so gut wie keine Fähigkeit im Bereich der zivil-militärischen Krisenbewältigung. Heute ist sie ein wichtiger und zunehmend „nachgefragter“ Akteur. Als wichtigste Elemente sind zu nennen:

- Aufbau der notwendigen Gremien und Strukturen in Brüssel; in erster Linie Einrichtung der Politischen und Sicherheitspolitischen Komitees (PSK), des EU-Militärausschusses sowie, als Teil des Ratssekretariats, des ca. 130 Mann
umfassenden EU-Militärstabs. Parallel hierzu Erarbeitung der entsprechenden Verfahren und Richtlinien.

- Stärkung der militärischen und zivilen Fähigkeiten und Sicherstellung einer Operationalität, wenn auch mit ernstzunehmenden Einschränkungen.

Im Jahre 2003 ging die EU von der Aufbauphase zur Anwendung ihrer Fähigkeiten über. Insgesamt vier Einsätze wurden eingeleitet:

- Polizeimission in Bosnien-Herzegowina (EUPM), seit Januar 2003
- Militärische Operation „Artemis“ im Ostkongo als sogenannte „autonome“ Operation der EU, also ohne Rückgriff auf NATO-Mittel/Fähigkeiten (Juni bis September 2003)
- Polizeimission „Proxima“ in Mazedonien (ab Dezember 2003)

Es zeichnet sich ab, dass die EU ab Ende 2004 eine militärische Operation in Bosnien-Herzegowina in Nachfolge der NATO-Operation SFOR durchführen wird. Daneben wird eine weitere Polizeimission der EU in Kinshasa ins Auge gefasst.

**Fortentwicklung der ESVP**

Parallel zur Umsetzung der 1999 formulierten Ziele kam es vor allem im Rahmen des Konvents über die Zukunft Europas und der daran anschließenden Regierungskonferenz zu einer Diskussion über die Fortentwicklung der ESVP.

Ausgehend von einem Beschluss des Deutsch-Französischen Gipfels vom Juli 2002 haben Deutschland und Frankreich dem Konvent im November 2002 wichtige Vorschläge zur Weiterentwicklung der ESVP unterbreitet. Der vom Konvent vorgelegte Entwurf des Verfassungsvertrags reflektiert diese Vorschläge:
Die im Entwurf des Vertrags vorgeschlagene Schaffung eines Europäischen Außenministers betrifft die GASP in ihrer Gesamtheit, ist aber gerade auch für die Handlungsfähigkeit im Bereich Konfliktprävention und Krisenbewältigung von herausragender Bedeutung.

Bei einem Gipfeltreffen am 29 April 2003 machten die Staats- und Regierungschefs von Belgien, Frankreich, Luxemburg und Deutschland eine Reihe von Vorschlägen zur Verbesserung der militärischen Fähigkeiten der EU. Insbesondere der Vorschlag einer Verbesserung der Planungs- und Führungsfähigkeiten der EU für autonome Operationen hat große Aufmerksamkeit erhalten und war Gegenstand intensiver Diskussionen. Aus Sicht der Bundesregierung kommt es darauf an, die Handlungsfähigkeit der Union zu verbessern und größtmögliche Multinationalität sicherzustellen.¹

Kernpunkte der ESVP

Abschließend möchte ich die Punkte hervorheben, die aus Sicht der Bundesregierung von besonderer Bedeutung für die Praxis und weitere Entwicklung der ESVP sind:

• Stärkung der Handlungsfähigkeit der EU in bezug auf Konfliktprävention und Krisenbewältigung
• Sicherstellen größtmöglicher Multinationalität bei Vorbereitung und Durchführung von Einsätzen
• Nutzung der ESVP als ein Element im Rahmen des breiten Spektrums des EU-Instrumentariums (umfassender Sicherheitsbegriff)
• Gleichberechtigte Entwicklung ziviler und militärischer Fähigkeiten
• Konzentration auf Krisen in Europa und an der europäischen Peripherie (wobei es ausdrücklich keine geographischen Grenzen für ESVP-Einsätze gibt)
• Stärkung der strategischen Partnerschaft zwischen EU und NATO.
Annalisa Monaco:

Who takes care of European Security? EU and NATO:

Competition or Cooperation?

Competition or co-operation between NATO and the EU has been the recurring question since the EU developed its military institutions and established the headline goal of a Rapid Reaction Force of 60,000 troops deployable in 30 days and sustainable in the field for at least one year. ESDP has come a long way since then but so has NATO, in the sense that the Atlantic Alliance has undergone a significant process of transformation, especially since the Prague Summit (November 2002). Any attempt to try to answer this question needs to investigate the following issues: 1) ESDP’s recent achievements and NATO’s ongoing transformation towards the XXI century; 2) proposals for the EU to set up planning structures independent from NATO; 3) prospects for a more ambitious EU (EU Security Strategy); and, 4) the relationship between EU Rapid Reaction Force (EURRF) and the NATO Response Force (NRF).

The EU becomes a (limited) military actor while NATO goes global

2003 has frequently been defined a “landmark” for the EU’s security and defence policy. EU’s policemen are deployed in Bosnia in the framework of the EU Police Mission, the first-ever civilian crisis management operation, with the aim of establishing law enforcement capabilities. On 31 March 2003, the EU took over from NATO command of its operation “Allied Harmony” in Macedonia and re-named it operation “Concordia”, which is the first-ever EU military operation. Concordia (350 lightly armed personnel from 13 EU member states and 14 non-members) relies on NATO assets and capabilities, under the so-called Berlin-Plus arrangements. This NATO-EU agreement grants the EU assured access to NATO assets and capabilities in the framework of what has been eagerly described “the new strategic partnership” between the two institutions. The aim of operation Concordia is to secure a stable environment and to ensure the implementation of the Ohrid Agreement, which settled in August 2001 the conflict between Slav Macedonians and ethnic Albanians. In June 2003, the EU launched then operation “Artemis” with the aim of preventing a large-scale humanitarian crisis in Ituri, a region in the North East of the Democratic Republic of Congo. Artemis, the first EU operation outside Europe and independent from NATO, was mandated
until 1 September to protect camps of internally displaced persons, secure the airport of Bunia (the capital of the Ituri region) as well as ensure the safety of the civilian population, UN personnel and the wider humanitarian presence. These operations are limited in scope and time but they have a high symbolic value. They are a tangible manifestation of the EU willingness to play an active role in crisis management tasks. With the notable exception of Congo (although it has to be reminded that for EU members having peacekeepers deployed so far away is nothing new and that in Congo only a few EU members were part of the operation), the EU seems on the verge of becoming the institution in charge of the European backyard. Not only the EU declared its willingness to take over from NATO the Stabilisation Force in Bosnia sometime in 2004, but in July there were also talks about a possible EU operation in Moldova, which should help settling the conflict with the separatist region of Transnistria.

Meanwhile, NATO has been equally if not more busy, especially since the transformation process initiated at the Prague Summit aimed at making the Alliance better suited to cope with the threats of the XXI century, such as international terrorism and nuclear, biological and chemical (NBC) weapons. NATO has streamlined its cumbersome command structure, which, as Secretary General Robertson put it, “has to be leaner and more efficient to meet the new security threats and challenges”. The Alliance has recently approved the concept of a NATO Response Force, which will be made up of 21 000 troops equipped with high tech weapons and defences against NBC weapons, and will be deployable within 7 to 30 days for high-intensity conflicts in a hostile environment. An early version of the NRF will be in place this Autumn. NATO has also recently taken over command of ISAF in Afghanistan and provided logistical support to Poland in Iraq. There were even calls for NATO to provide a peacekeeping force between Israel and a future Palestinian state, if a proper agreement is eventually reached between Israelis and Palestinians. NATO has indeed increasingly taken a global outlook and has put to an end the out of area debate, which represents a very significant step for an alliance which was established to counter the Soviet threat on the European continent.

**Can the EU be autonomous from NATO?**

The underlying issue of competition versus co-operation is also intimately related to the question of whether there are any chances that in the near future the EU or some its members might be able to build a European defence union independent of NATO. Last April, France,
Germany, Belgium and Luxembourg convened in Brussels a mini-defence summit to discuss proposals to further develop ESDP. While most of the mini-summit proposals re-iterated ideas already circulating within the Defence Working Group of the European Convention, the proposal to create “a nucleus collective capability for planning and conducting operations for the EU” (to be set up in Tervuren, a Brussels’ suburb), rang quite a few alarm bells at NATO Headquarters. The quartet’s initiative rekindled NATO’s concerns about the EU duplicating NATO’s structures and role, and highlighted the differing visions of EU members over ESDP. Should it be developed under NATO’s wing (drawing on the Berlin Plus arrangements) or head down a more autonomous path?

The proposal for an autonomous EU HQ raised eyebrows in the UK (who launched ESDP together with France on the assumption that it would act “where NATO as a whole is not engaged” and would rely on NATO assets) and did not gain the favour of traditionally integrationist countries like Italy, Spain and The Netherlands. Additionally, it is financially costly and increased defence budgets are not forthcoming. Should European countries want to undertake small operations, they could rely on national HQs, like the UK’s Permanent Joint Headquarters at Northwood. Last, such an independent planning cell would lack the intellectual military power that SHAPE has to offer, which has unique expertise and experience from decades of joint co-operation. For the time being, a cluster of different constraints (political, military and financial) makes quite challenging the development of some sort of European defence organisation fully independent from, and therefore potentially in competition with, NATO.

A more ambitious EU: Use of force against WMD? From peacekeeping to peacemaking?

At the EU Summit at Thessaloniki in June 2003 foreign policy chief Javier Solana presented to EU leaders the draft of a European Security Strategy (ESS), to be finalised in December 2003. The document provides a framework for EU members to reconcile their differences on key questions such as the use of force, and for the first time it formally addresses the key US concerns of international terrorism and WMD proliferation.

“Terrorism, WMD proliferation and failed states and organised crime” are indeed, according to the document, Europe’s “new threats” which are “more diverse, less visible and less predictable”. Three strategic objectives are proposed for the Union: “stability in Europe’s immediate neighbourhood, an international order based on effective multilateralism, and to tackle old and new threats”. While meeting US security concerns and moving towards a
strategy based on threats rather than means (on the US example), emphasis is put on “effective multilateralism”. This means that the “development of a stronger international society, well functioning international institutions and a rule-based international order should be the EU’s objective”. The UN is portrayed as “the fundamental framework for international relations”. “The EU”, Solana maintains, “should be ready to act when the rules of international organisations, regimes and treaties are broken”. The ESS states that “with the new threats the first line of defence will often be abroad” and that “the EU should develop a strategic culture that fosters early, rapid, and when necessary, robust intervention”. “Action”, Solana declared speaking before the European Parliament, “could include the use of force in accordance with international law, when all other means have been exhausted”. Clearly, international law and institutions remain central in the EU’s vision, and force will be one element among others (the others being inspection and verification mechanisms, sanctions, diplomacy…). Additionally, in the ESS Solana emphasises once again the need to deliver adequate capabilities through increased defence resources, pooling of capabilities and improved sharing of intelligence among member states and partners.

The use of force against the new threats as envisioned in the ESS would mark a stark departure from how the Petersberg tasks have been conceived. While they encompass in the theory the whole spectrum of activities (humanitarian and rescue tasks, peacekeeping and tasks of combat forces including peacemaking), a consensus has been developed for the EU to tackle the low-end of the spectrum, as the military operations so far undertaken by the EU testifies. This is due to different reasons, such as reluctance from some member states to entrust the EU of some competencies that could undermine the transatlantic link, the fact that some states prefer to project military power independently or as contributors to ad hoc coalitions, lack of adequate capabilities and opposition from some member states (like the four neutrals) to make the EU a fully-fledge military actor. As G. Quille and A. Missiroli put it, “high-end missions are more controversial, and their understanding seems differently nuanced even among the main military players in the EU”. On the contrary, Solana’s call for the EU to take more responsibility for its immediate neighbourhood looks more realistic. After enlargement in 2004, an arc of instability will surround the EU, from Belarus, via the Caucasus and the Middle East, through to Morocco. The fact that during the summer a possible EU mission to Moldova has been mentioned is indeed a sign of the EU’s acknowledgement of its stakes in the so-called “near abroad”.

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The (not so) common ESDP Conference Report
Monaco: EU and NATO: Competition or Cooperation?

The two rapid response forces

How the EURRF and the NRF will interact is currently far from clear. At the defence ministerial in June 2003, NATO declared that the “developing relationship between the NRF and the related work of the EU headline goal must be mutually reinforcing while respecting the autonomy of both organisations”. However, some NATO officials complained that in this regard nothing concrete has been done so far.

The EURRF and the NRF rely on the same pool of forces, as most countries have the same units assigned both to NATO and the EU, a.k.a. “double hatting”. In theory, this could represent a problem. Using the same troops for both the NRF and the EURRF is risky, because if one is deployed the other suffers. As both institutions are expanding their areas of engagement, some people fear this will spark a competition for resources. Another argument is that as the NRF will be able to do everything (although it was specifically devised for high-intensity conflicts in a hostile environment), this will further push the EURRF to the lower end of the spectrum, i.e. humanitarian operations and peacekeeping tasks. And this is indeed what some NATO officials maintained when they pointed out that “the Alliance is better suited to acting globally while the EU should manage its own backyard”.

Leaving aside whether NATO members will ever agree on what to do with the NRF (for instance, pre-emptive actions without a UN mandate are likely to be highly controversial) and how “rapid” the NRF will be if nations have to follow lengthy procedures for the deployment of their quota of troops (such as parliamentary approval), the need to devise ways for increased synergy with the EURRF is becoming more urgent. Scarce resources and expanding geographical interests would make it advisable for these institutions to embark sooner rather than later on a frank debate about the ambitions of the respective forces.

Conclusion

Current trends seem to suggest that the US will act globally through ad hoc coalitions of the willing, a global NATO will be involved mainly in post-conflict stabilisation tasks (like in Afghanistan and perhaps one day even in Iraq) and the EU would be left to take care of the European backyard/neighbourhood and to focus on conflicts in places where NATO would not go, like Africa. Everybody agrees that this is not equal partnership and that this might be an unsustainable division of labour in the long-term. However, as long as plans for more ambitious visions will not be matched by adequate capabilities (which do not seem forthcoming) and a security concept that includes the use of hard power (for which it remains
to be seen whether EU members will muster the required political will), there are not many chances to alter the status quo.

NATO and the EU are more likely to complement each other by undertaking different kinds of missions in different parts of the world. The NRF and the EURRF were conceived to carry out different tasks. Additionally, scarce resources will not allow much duplication, for instance in terms of planning structures. Many EU missions will need recourse to NATO assets and this will further reinforce ties between the two institutions. If the European members of NATO succeed in boosting their military capabilities, this would benefit also ESDP. With the appropriate capabilities both institutions would be taken more seriously by the US. NATO would be the institution to which the US would turn and the EU would actually be able to tackle terrorism and WMD proliferation. If the Europeans fail in boosting their capabilities, both institutions will suffer and any talks about competition between the two institutions will increasingly become a “theological” debate. As Daniel Keohane from the Centre for European Reform put it, “ESDP and NATO will sink or swim together”.
Klaus Kleffner:
Who takes care of European Security? EU and NATO:
Competition or Cooperation?

- Thank you very much for inviting me to give my views on the issue which itself would merit a seminar on its own. Since this issue is politically sensitive, I offer my views on a personal basis.
- I intend to address the question what means “European” in this context, then outline NATO’s approach to security, including European security, as expressed in the Strategic Concept and the Prague Summit of November 2002, discuss the European Union’s views on European security, give an overview where NATO and EU currently cooperate in ensuring European security. You will see during my presentation that members of both organisation, NATO and the EU, have constantly developed their understanding of cooperation between both organisations. At the end of my presentation, I will highlight potential areas of competition which have led or may lead to concerns on either side.

Let me start with the first question: What means “European”?

- As you probably are aware the term “European” is often used in different contexts. “European” applies to nations which geographically belong to Europe or are part or will be part of the European Union. European is used in historical, cultural, economic, or political terms. You have recently followed the debate of “old Europe” versus “new Europe”. One could continue to find other differentiations.
- For the purpose of my presentation, I would like to limit the understanding of “European” to the membership to NATO, NATO’s relation with Partner nations, Russia and the Ukraine, as well as the membership in the European Union.
- NATO currently has 19 member states, of which eleven belong to the European Union, another six have an European footprint (CZ, HU, IC, NO, PL, TU) and two belong to North America. The nations invited to join NATO in Spring 2004 (BUL, EST, LAT, LIT, ROM, SVK, SVN) represent another 7 European nations, increasing NATO’s European members to 24. As a result, starting Spring 2004, 19 of the 26 NATO nations will be in the European Union and 24 will be located in Europe.
On the other side, the European Union currently has 15 member states, four of which do not belong to NATO (AUS, FIN, IRL, SWE). The ten nations acceding to the European Union in Spring 2004 will also be part of NATO with the exception of Cyprus and Malta. By Spring 2004, 19 of the 25 nations in the enlarged European Union will also be members of the Alliance.

European nations in the European Union and in NATO share the same security interests. All of them are convinced that only NATO can provide the full scope of capabilities required to respond to the security challenges which European nations might face in the foreseeable future. However, it also became apparent, that the European Union, representing almost 500 million people by Spring 2004, will have to respond to the security interest of its member states. Where to put the emphasis, what type of duplication of effort would be necessary and where it should be avoided, and how the two organisations would cooperate and complement each other, has been subject of multiple debates and concerns.

I have also to add that NATO has developed strong security relations with most of the nations in Central Europe and Central Asia, totaling up to 46 nations in the European-Atlantic Partnership Council.

So when we talk about security we have a large number of nations in Europe and Central Asia which trust in NATO to provide a forum for their security interests. The European-Atlantic Partnership Council looks at NATO for providing a forum for national security interests. It was set up in 1997 and brings together the 19 Allies and 27 Partners in a forum providing for regular consultation and cooperation. It meets periodically at the level of Ambassadors and Foreign and Defence Ministers.

Let me now explain NATO’s approach to Security.

The main authoritative document on Alliance security is the Alliance Strategic Concept which was adopted in Spring 1999. It confirms that the Alliance’s essential and enduring purpose is to safeguard the freedom and security of its members by political and military means. It affirms the values of democracy, human rights, and the rule of law and expresses the commitment of the Allies not only to common defence but to the peace and stability of the wider Euro-Atlantic area.

The strategy also defines the Alliance’s fundamental security tasks, both in terms of collective defence, which has been at the centre of Alliance preoccupations since its
establishment, and in terms of new activities in the fields of crisis management and partnership that the Alliance is undertaking in order to enhance the security and stability of the Euro-Atlantic area.

- The Concept describes the strategic environment and assesses foreseeable security challenges and risks. It notes that in recent years the environment has been marked by continuing and generally positive change and that the Alliance has played an essential part in strengthening Euro-Atlantic security since the end of the Cold War.

- With respect to risks, the document reaffirms the conclusion in the 1991 Strategic Concept that the threat of general war in Europe has virtually disappeared but that there are other risks and uncertainties facing the members of the Alliance and other states in the Euro-Atlantic region, such as ethnic conflict, the abuse of human rights, political instability, economic fragility, terrorism and the spread of nuclear, biological, and chemical weapons and their means of delivery.

- One of the distinguishing features of the Alliance’s 1991 strategy was its broad approach to security, encompassing complementary political and military means and emphasising cooperation with other states that share the Alliance’s objectives. This comprehensive approach remains a central feature of the Strategic Concept which includes three essential elements:
  - *The preservation of the transatlantic link*. The Strategic Concept underlines the indivisibility of European and North American security and therefore the importance of a strong and dynamic partnership between Europe and North America.
  
  - *The maintenance of effective military capabilities*. The strategy calls for military capabilities that will be effective under the full range of foreseeable circumstances, from deterrence and collective defence to crisis response operations.
  
  - *The development of the European Security and Defence Identity within the Alliance*. The Strategic Concept confirms that the European Security and Defence Identity will continue to be developed within the Alliance on the basis of decisions taken by Alliance Foreign Ministers in Berlin in 1996 and thereafter. It states that this process will require close cooperation between NATO and the European Union. The Concept affirms that this process will enable all European Allies to make a more coherent and effective contribution to the missions and activities of the Alliance; and it will assist the European Allies to act by themselves as required through the readiness of the Alliance, on a case-by-case basis and by consensus, to make its assets and capabilities available for European-led operations in which NATO is not
engaged militarily, taking into account the full participation of all European Allies if they were so to choose.

- The Concept defines an important role for the Alliance with respect to conflict prevention and crisis management, since crisis response operations like those in Bosnia and in Kosovo are likely to remain a key aspect of NATO’s contribution to Euro-Atlantic peace and security.

- The Concept emphasises the Alliance’s determination to pursue its long-standing policy of partnership, cooperation and dialogue with all democratic Euro-Atlantic countries, in order to preserve peace, promote democracy and contribute to prosperity and progress. It points out that this approach is aimed at enhancing the security of all, excludes nobody, and helps to overcome divisions that could lead to conflict. It also describes the principal instruments of this policy - the Euro-Atlantic Partnership Council, the Partnership for Peace, the special relationships with Russia and Ukraine, and the Mediterranean Dialogue.

- The Concept confirms the openness of the Alliance to new members under Article 10 of the Washington Treaty and restates NATO’s expectation that it will extend further invitations in coming years.

- The Strategic Concept establishes guidelines for the Alliance’s forces, translating the purposes and tasks into practical instructions for NATO force and operational planners. The strategy calls for the continued development of the military capabilities needed for the full range of the Alliance’s missions, from collective defence to peace support and other crisis response operations.

Three and a half years after the Washington Summit in Spring 1999, Heads of State and Government, met again in Prague to take stock of the past events, especially the terrorist attacks against the United States and the operations to counter terrorism.

- They committed themselves to transforming NATO with new members, new capabilities and new relationships with their partners, they confirmed their commitment to the transatlantic link; to NATO’s fundamental security tasks including collective defence.

- They approved a comprehensive package of measures, based on NATO’s Strategic Concept, to strengthen NATO’s ability to meet the challenges to the security of its forces, populations and territory, from wherever they may come. These decisions will provide for balanced and effective capabilities within the Alliance so that NATO can better carry
out the full range of its missions and respond collectively to those challenges, including the threat posed by terrorism and by the proliferation of weapons of mass destruction and their means of delivery.

- They underlined that the efforts to transform and adapt NATO should not be perceived as a threat by any country or organisation, but rather as a demonstration of the determination to protect their populations, territory and forces from any armed attack, including terrorist attack, directed from abroad.

- They were determined to deter, disrupt, defend and protect against any terrorist attacks on NATO, in accordance with the Washington Treaty and the Charter of the United Nations.

- In order to carry out the full range of its missions, NATO must be able to field forces that can move quickly to wherever they are needed, upon decision by the North Atlantic Council, to sustain operations over distance and time, including in an environment where they might be faced with nuclear, biological and chemical threats, and to achieve their objectives.

- Effective military forces, an essential part of the overall political strategy, are vital to safeguard the freedom and security of our populations and to contribute to peace and security in the Euro-Atlantic region. Therefore, Heads of State and Government approved the Prague Capabilities Commitment (PCC) as part of the continuing Alliance effort to improve and develop new military capabilities for modern warfare in a high threat environment. Individual Allies have made firm and specific political commitments to improve their capabilities. The efforts to improve capabilities through the PCC and those of the European Union to enhance European capabilities through the European Capabilities Action Plan would be mutually reinforcing, while respecting the autonomy of both organisations.

- Since NATO and the European Union share common strategic interests, they remain strongly committed to the decisions made at the Washington Summit and subsequent Ministerial meetings, in order to enhance NATO-EU cooperation. The success of this cooperation has been evident in the concerted efforts in the Balkans to restore peace and create the conditions for prosperous and democratic societies. Events on and since 11 September 2001 have underlined the importance of greater transparency and cooperation between the two organisations on questions of common interest relating to security, defence, and crisis management, so that crises can be met with the most appropriate military response and effective crisis management ensured.
Let me now briefly describe how I see the efforts of the European Union in European security without recalling the very beginnings of European security and defence efforts, and include some aspects as they appear in the views of the current Italian presidency.

- In 1999, the Helsinki European Council set 2003 as the target date for achieving a European military capability. NATO provided expert advice to the EU in the development of the Headline Force.

- In the framework of the European Defence and Capability Policy (ESDP), the objective of the Helsinki Headline Goal is to enable the EU, by the year 2003, to deploy and sustain for at least one year, military forces of up to 60 000 troops to undertake the full range of the so-called Petersberg tasks set out in the Amsterdam Treaty of 1997. These consist of humanitarian and rescue tasks; peacekeeping tasks; and tasks of combat forces in crisis management, including peacemaking. Their role will be to undertake military operations led by the EU in response to international crisis, in circumstances where NATO as a whole is not engaged militarily, in line with the EU’s resolve to develop a common European policy on security and defence which would underpin its Common Foreign and Security Policy militarily. EU member states have stated their intention to avoid unnecessary duplication with NATO structures and have emphasised that these decisions do not imply the creation of a European army.

- The current Italian presidency has expressed its intention that the EU should take further steps to strengthen the operational credibility of the European military capabilities. This will be done on the basis of a Security Strategy which is currently being finalised. The EU should also undertake major efforts to ensure that the European force has the best operational capability and the best degree of protection, taking into account the new threats posed by international terrorism.

- In order to achieve qualitative and quantitative improvements, the Italian presidency’s aim is that Member States should rationalise their procedures for acquiring military equipment, explore formulas to make new investments possible despite budgetary restrictions, and promote a modern European armaments industry. In this context, impetus will be given to the formation of a European Agency for the development of capabilities, strategic research and acquisition. All this shall be carried out in cooperation with NATO.
The EU seems to be determined to improve and make more coherent the relationship between the European Union and NATO, which is essential in order to make major European missions possible. Following the arrangements at the Copenhagen European Council in December 2002, the Berlin Plus arrangements are now being implemented. These agreements guarantee the provision of NATO resources for EU operations, in order to prevent duplication, which would be politically and economically inappropriate.

Since the beginning of 2003, the ESDP, strengthened by its solid link to NATO, has been carrying out its first field test, namely the follow-up to the Allied Harmony operation in Macedonia (Operation Concordia), the international police mission in Bosnia (EUPM) and Operation Artemis in the ITURI region of the Democratic Republic of the Congo.

Having described NATO and EU approaches to security, I would like now to highlight how the two organisations intend to improve their relations.

- On 16 December 2002, the EU and NATO issued a declaration on European Security and Defence Policy (ESDP) in which they, inter alia, reaffirmed that NATO remains the foundation of the collective defence of its members, welcomed European Security and Defence Policy (ESDP), including the capacity to conduct EU-led military operations where NATO as a whole is not engaged, reaffirmed that a stronger European role will help contribute to the vitality of the Alliance, specifically in the field of crisis management, and reaffirmed their determination to strengthen their capabilities.

- The declaration set out the principles of partnership; effective mutual consultation, dialogue, cooperation and transparency; equality and due regard for the decision-making autonomy and interests of the European Union and NATO; respect for the interests of the Member States of the European Union and NATO; respect for the principles of the Charter of the United Nations; and the need for coherent, transparent and mutually reinforcing development of the military capability requirements common to the two organisations;

- To this end both organisations have recognised the need for the coherent, transparent and mutually reinforcing development of the capability requirements common to the two organisations.
Following the declaration in December 2002, NATO took major decisions in March 2003 to support future European security efforts. Since then, NATO is in a position to give the EU ready access to the collective assets and capabilities of the Alliance for operations in which the Alliance as a whole is not engaged militarily. This includes inter alia, EU access to NATO planning capabilities able to contribute to military planning for EU-led operations; NATO capabilities and common assets for use in EU-led operations; a range of command options for EU-led operations, including further developing the role of DSACEUR to enable him to meet his European responsibilities fully and effectively; adaptation of NATO’s defence planning system to incorporate more comprehensively the availability of forces for EU-led operations; and arrangements regarding NATO-EU cooperation in capability development.

Let me come back to the question of competition or cooperation?

Throughout my presentation you have seen that NATO and the EU made a lot of efforts to improve their cooperation because nations became aware that European security could not be provided outside NATO. This requires strong European capabilities inside NATO (ESDI) and a reinforcement of the transatlantic link. On the other hand, it has been acknowledged that the European Union need to have an European Security and Defence Policy (ESDP) and military capabilities for crisis management in cases where NATO as a whole is not engaged militarily.

The cooperation between both organisations has made great progress. Therefore, I would like to stress that the relation between EU and NATO is much more relying on cooperation than on competition.

Let me conclude

From a NATO perspective, the security interests of NATO and the European Union converge very much. NATO has been created as an Alliance which concentrates on delivering security to its member states and those who want to cooperate with the Alliance. It is specialised in the “delivery of security” and has a very long experience in it. NATO can only be as strong as the cohesion of its members and the resources they provide to NATO would allow for. Therefore, we welcome much the efforts of European Allies inside the Alliance. We recognise and welcome the European defence and security
efforts as long as they are not undermining the Alliance and do not distract capabilities from it. NATO is making major efforts to support the European Union in its security interests as specified in the ESDP.

- Both organisations need to cooperate as much as possible without endangering their identity and autonomous decision making. On the other hand, a bit of competition has always helped to improve the quality of endeavours.
Heiko Borchert:
The Future of Europe's Security and Defense Policy (ESDP) and
the Limits of Intergovernmentalism

"The European Union is, like it or not, a global actor; it should be ready to share in the responsibility for global security."

_Draft EU Security Strategy_²

"Half-way integration means half-way power."

_Fraser Cameron_³

The conference organizers ask whether there is a way from cacophony to harmony in ESDP. My answer to this question is a strong "yes." Implementing this affirmative response, however, requires more, rather than less Europe in terms of foreign, security and defense cooperation. The purpose of the following food for thought thesis is to stimulate discussion on this issue by suggesting several ways to achieve "more Europe." The paper centers around four basic issues:

- Despite recent rifts, the transatlantic relationship has not become obsolete. However, none of the partners should take cooperation for granted. Both sides need to work hard to put their partnership on a new basis.
- The draft of an EU security strategy submitted by the High Representative for Foreign and Security Policy, Javier Solana, is a promising start. It should be developed further and implemented with vigor, thereby addressing existing shortcomings, such as the mix of interests and instruments and cooperation with other international organizations.

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³ Fraser Cameron, _An EU Strategic Concept_, EPC Issue Paper No 4 (Brussels: The European Policy Centre, 2003), p. 28.
The (not so) common ESDP
Conference Report
Borchert: The Future of ESDP

- Europe already has an impressive reservoir of security capabilities, but it also suffers from key shortcomings. In order to overcome existing deficits, role specialization and the pooling of resources should be embraced wholeheartedly across the whole spectrum of foreign and security policy tasks.

- ESDP is about the consistent mix of civilian and military means to address the security risks and threats of today and tomorrow. This requires a higher degree of "jointness" among the different actors involved, thus leading to an increased need for integrated security policy. This requires harmonization of national and international planning and decision-making processes.

The Future of the Transatlantic Relationship

**Thesis 1**

*The current U.S. foreign policy is unsustainable. Domestic and international requirements will lead to a U.S.-European rapprochement. However, the age of cozy transatlantic relations is over. Both sides need to work hard to reinvent traditional bonds.*

The current state of the transatlantic partnership has caught the interest of students of international relations and of the public media alike. Various explanations have been presented in order to come to terms with the causes and the consequences of the most recent differences over some key policy issues (such as International Criminal Court, Kyoto Protocol, war on Iraq.). Among other things, it has been argued that the transatlantic partnership suffers from three power gaps:

1. The first gap is the United States' overwhelming military power that dwarfs any near competitor. Different threat perceptions among transatlantic allies have led to diverging spending and investment patterns. This, in turn, has created a gap in military capabilities.
2. The second gap concerns the transatlantic community's ability to influence events based on cultural attraction, ideology, and international institutions

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or soft power. The transatlantic soft power gap does not follow from a shortage of capabilities, but rather from an increasing proclivity of both partners to use their soft power capabilities against each other in what seems to become a useless "soft power rivalry." Finally, existing hard and soft power capabilities have not yet found an adequate institutional home. NATO remains the preeminent organization to fight military threats. However, the security agenda of the post-Cold War has widened dramatically, thus pushing the EU-U.S. dialogue to the fore as an alternative platform for discussion of the new security risks. This dichotomy between military and civilian approaches is detrimental to effective solutions to today's challenges.

Whatever solution will be found to overcome these gaps – most recently a number of experts have advanced ideas for a new transatlantic treaty, or a new Atlantic Community Treaty Organization, as a soft power framework to complement existing institutions – progress will be impossible without substantial policy changes in the United States and in Europe. Washington needs to get back on its traditional course of remaining locked in international commitments and multilateral institutions. It needs to underline that it cares for allies, not only as "satellites," but also as long-time strategic partners in order to address current challenges. Failing to act along these lines will not only undermine U.S. legitimacy and credibility. In the long-term it will also produce the kind of political counterweights that the U.S. national security strategy seeks to avoid. Europeans, on the other hand, must make sure that deeds follow their words. As will be argued below, the draft treaty for a European constitution and Solana's draft security strategy contain many good ideas in this direction. Implementing these ideas, however, will require Europe to say good-bye to a long held tradition of intergovernmental security and defense policy-making in favor of a strong backing of its supranational institutions.

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The Future of Europe's Security Strategy

Thesis 2
The draft EU security strategy is a welcome step into the right direction. It has many strengths, but it falls short on two important aspects: it does not address how the EU's wide array of instruments should be used and the need for closer inter-institutional cooperation.

The authors of "A Secure Europe in a Better World," the first draft of the EU’s security strategy, must be commended for a job well done. Stating right at the beginning the obvious truth that the EU is a global actor, the paper

- analyzes the key strategic threats that need to be addressed (terrorism, proliferation of weapons of mass destruction, and failed states and organized criminality) and
- identifies Europe's strategic objectives (stability and good governance, international order based on multilateralism, tackling old and new threats).  

The authors underline Europe's preference for rules-based international politics, but they also contend that there might be situations that could require preemptive engagements. They also make it clear that for Europe to achieve its goals, substantial changes will be needed. The draft wants Europe to become more active in pursuing its strategic objectives, demands greater coherence in bringing together different instruments and capabilities, and pledges more resources for defense, stronger diplomatic capability – including the idea of pooling existing diplomatic resources – and improved sharing of intelligence. But at least two aspects did not receive enough attention in the current draft and need to be dealt with in greater detail in the final document to be submitted by the end of the year: the systematic use of all instruments available to the EU and cooperation with other international organizations.

Use of available instruments: The EU security strategy must clarify when, where, and how the Union can make optimal use of its various foreign and security policy instruments. Although progress has been achieved on increasing conceptual coherence, much more must be done. While it would be inadequate for a strategy to get into the operational details of policy implementation, a stronger emphasis on broad policy guidelines is needed. To this

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9 A Secure Europe in a Better World, pp. 2-10.
The (not so) common ESDP

Borchert: The Future of ESDP

purpose the following questions should be answered: What are the Union's zones of primary interests? What policy mix is best suited to address these zones? What instruments should be used in which situation? What are the Union's favored instruments for preemptive engagement? When and where is preemptive engagement necessary and reasonable? How can Union activities for security sector reform in potential pockets of crises be combined with other CFSP and ESDP activities? What lessons can be learned from the Union's Stabilization and Association Agreements for the pacification of other strategic areas?

Inter-institutional cooperation: The security strategy is right to acknowledge that the Union will have to cooperate with others to achieve its goals. However, the strategy puts too little emphasis on strategic partnerships with the UN, the OSCE and NATO. The EU, the UN, and the OSCE are a perfect trio, because their security approach is based on a comprehensive understanding of security and a preference for rules-based politics. The OSCE in particular is active in regions that will border with an enlarged Union. The Vienna-based organization should thus become a key partner, with whom the EU enters into dialogue on joint planning and joint deployment of missions and other field activities. Field missions of the OSCE that are active on the spot can be used as "intelligence antennae" to provide both organizations with feedback on how to adapt their programs to achieve optimal outcomes.10 The same can be said with regard to EU-NATO relations. The agreement that was signed in late 2002 was a milestone in advancing mutual cooperation. Since St. Malo, discussion on the future of this relationship has focused overly on perceived competition, rather than on mutual support. NATO can avail itself of those military capabilities that the EU has so far been lacking. NATO's Partnership for Peace Program is essential in increasing military interoperability, which is a prerequisite for EU- and NATO-led operations. In addition, NATO is already active in potential zones of EU interests – such as Iraq and Afghanistan – thus stabilizing these areas to the benefit of the Union. To capitalize on these experiences, both organizations should gear-up their cooperation activities in order to agree on joint areas of cooperation and a division of labor to project peace and security to regions of common interest.

The Future of Europe's Security Capabilities

Thesis 3
Role specialization and pooling of resources should be embraced across the whole spectrum of ESDP and CFSP tasks. Unleashing the potential of these approaches requires more "jointness" at the European level and thus more supranational integration, rather than intergovernmental cooperation.

In a situation where public households run dry but key capability shortfalls demand substantial remedies, role specialization and the pooling of resources have been advanced as potential avenues for the future. Both approaches also have a strategic dimension, because they can help address existing capability shortfalls in a systematic way. Role specialization builds on the fact that Armed Forces dispose of comparative advantages. The more a country could concentrate on providing and maintaining these advantages, the more it would be freed from providing distracting services. As more countries join the team, each brings valuable competencies to the table and benefits from the strengths of the other partners. Pooling of resources works in a similar way. By bringing together existing resources or competencies, synergy potential can be unleashed, thus providing extra benefit to all partners engaged in pooling efforts. While pooling has been favored in the joint procurement of scarce capabilities, as in German-UK cooperation on suppression of air-enemy defense (SEAD) and the Dutch-Belgium merger of maritime commandos, role specialization was advanced by individual countries, for example Czech capabilities for protection against chemical, biological, radiological, and nuclear attacks (CBRN).\(^\text{11}\)

It goes without saying that both approaches create new opportunities and new threats, as shown in Table 1.\(^\text{12}\) Most importantly, both approaches will substantially encroach upon national sovereignty in security and defense policy. There must be an international body that


identifies the capabilities that are in short supply and addresses the countermeasures in a way that guarantees effective and efficient use of scarce resources. Furthermore the same body must also be responsible for planning joint procurement and maintenance of these capabilities. As long as the European Union does not have any supranational capabilities, the same body will also have to provide for "redundant planning," because the withdrawal of a key capability by one nation might endanger a European operation. At the moment, two options seem plausible. The new European Armaments, Research and Military Capabilities Agency could provide the relevant services.13 This is, however, only an intergovernmental body. Joint plans could thus clash with national priorities, especially where interests of the national defense industry are involved. The more promising long-term alternative is thus the EU Military Staff or a potential EU Headquarters that would be more supranational in nature.

<table>
<thead>
<tr>
<th>Opportunities</th>
<th>Threats</th>
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<tbody>
<tr>
<td>• Division of labor makes it possible to systematically address existing capability shortfalls (e.g., through assigning lead-nation roles)</td>
<td>• Conflicting national interests, diverging national security policy cultures and different threat assessments can endanger consensus-building</td>
</tr>
<tr>
<td>• Focus on core competencies allows for efficient and effective use of scarce resources (e.g., through the reduction of redundancies)</td>
<td>• Domestic resistance to be expected in case of entering into strategic partnerships with other nations that are perceived as limiting the national leeway or when national capabilities are given up (e.g., job losses)</td>
</tr>
<tr>
<td>• Problems of harmonization and synchronization in capability procurement can be overcome</td>
<td>• Without top-down planning and management processes, harmonization and synchronization problems will persist, and there is a danger of &quot;white spots,&quot; e.g., capabilities that nobody wants to provide</td>
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Table 1: Opportunities and threats of role specialization and pooling of resources

The use of role specialization and pooling of resources should, however, not be confined to military matters. The same principles can also be applied in the much broader field of foreign and security policy. The draft EU security strategy has already hinted at this possibility by referring to the idea of pooling diplomatic capabilities.14 Other examples could include:

- Joint resource pools in the field of development policy, including joint planning, joint maintenance of local infrastructure, joint program management processes and instruments.

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Such initiatives could also aim at tighter cooperation with the business sector, which can add specific competencies to economic development.\textsuperscript{15}

- Pooling of resources for civil-emergency planning and consequence management, e.g., for natural catastrophes\textsuperscript{16}
- Pooling of verification capabilities in the field of arms control and non-proliferation
- Pooling of capabilities for border control and to fight human trafficking
- Combine specific intelligence expertise in a European intelligence pool\textsuperscript{17}

\textbf{Thesis 4}

\textit{The defense industry plays a key role in implementing ESDP. European planning and programming will benefit from the launch of the European Armaments, Research and Military Capabilities Agency, but more must be done to guarantee smooth cooperation with defense contractors.}

There can be no doubt that the defense industry plays a key role in transforming today's Armed Forces and in providing the necessary capabilities.\textsuperscript{18} Besides tackling a demanding restructuring and consolidation agenda that was put forward by the end of the Cold War, the defense sector also needs to adapt to the new demands of modern warfare.\textsuperscript{19} It has been recognized that European defense manufacturers suffer competitive disadvantages that stem from Europe's fractioned defense markets. The European Commission has launched several proposals to overcome these problems. The most recent Commission communication aims at advancing ideas for a "EU Defense Equipment Policy." Among other things, it foresees the need for harmonized European approaches to defense standardization, the monitoring of


\textsuperscript{17} A recent study argues that EU member states, such as Germany, France, and the UK, have intelligence collection capabilities that are complementary rather than overlapping, thus underlining the benefits of intelligence sharing. See: Adam Townsend, \textit{Guarding Europe} (London: Centre for European Reform), p. 26.

\textsuperscript{18} For more on this, see: Peter W. Singer, \textit{Corporate Warriors. The Rise of the Privatized Military Industry} (Ithaca: Cornell University Press, 2003).

defense-related industries, a simplified licensing system to facilitate administrative procedures and harmonization of defense procurement rules.\textsuperscript{20}

In addition to this initiative and other attempts to advance multinational defense industrial cooperation, Europe also needs a defense industrial policy similar to those adopted by individual member states. The UK defense industrial policy, for instance, focuses on the government's procurement criteria and outlines public expectations with regard to industry performance.\textsuperscript{21} The UK has also gone a long way in partnering with the defense industry. Besides the maintenance of facilities and the provision of training and simulation capabilities, the UK Ministry of Defense has also started to use public private partnerships to procure strategic key capabilities, such as the new strategic tanker and the new air-craft carrier.\textsuperscript{22} Other European countries have followed this example.\textsuperscript{23} Although the trend towards outsourcing can yield beneficial results, it also creates new problems. In order to avoid a multitude of diverging national solutions, these problems should be solved at the European level. First, it makes sense to assess what kind of military services are specifically suited to outsourcing and to pool the respective services. Although there may be specific national conditions that need to be taken into account, a European approach comes with the benefit of leveraging the public sector's buying power vis-à-vis the industry. Second, it will be useful to adopt joint provisions for the regulation of private military companies that provide services to the frontline. Especially in the field of logistics, most countries work with their own companies contracted at home. This increases the need for coordination in the theater of operations. It should thus be analyzed whether it makes sense to pool all industrial logistics services and to coordinate them via European (or NATO) logistics cells. Finally, private military companies active in combat areas face specific risks that need to be covered. Here a

European solution makes sense, because it would harmonize security regulations and streamline insurance solutions.

**Thesis 5**

*Key industries, such as biotechnology, genomics, life sciences, and nanotechnology, need to be better integrated into the provision of security policy capabilities.*

The discussion about military and security policy capabilities is inseparable from the respective science and technology (S&T) base. This link is obvious when we look at some of the most crucial capabilities in the areas of command, control, communications, and computers (C4) and intelligence, surveillance, and reconnaissance (ISR), which require sound knowledge in the fields of information and communication technology, sensor fusion, bandwidth, cryptology, and other S&T fields. Because of their dual use character, there is a growing dependence on the civilian industry, which sets the pace of innovation. Beyond this first area of cutting-edge dual-use technologies, there is a second area.

Although biotechnology, genomics, life science, and nanotechnology are part of the 6th EU Framework Program for Research and Technological Development, which is funded with 13 billion Euro, there is no direct link between S&T activities covered by this program and Europe's search for adequate security policy capabilities. To name but a few examples, biotechnology, genomics, and life science are of key importance in protecting against CBRN attacks, and nanotechnology makes it possible to invent new materials, make them more durable, increase their resistance, and reduce their weight, offering a broad range of benefits. Besides these security-related applications, biotechnology, genomics, and life sciences play an increasingly important role in the worldwide fight against hunger and underdevelopment. That said, it is high time to gear-up S&T efforts in these areas for the purpose of security policy by:

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• addressing this gap in the EU strategies for defense-related industries and for life sciences and biotechnology;\(^{26}\)
• promoting military and security policy research under the umbrella of the EU research framework;
• tasking the new European agency for defense capabilities development, research, acquisition, and armaments to set up and coordinate research activities in these areas
• devising special procedures for the mutual exchange of knowledge and lessons learned in these dual use areas in order to overcome the traditional dichotomy between S&T for military and for civilian purposes.

The Future of Security Policy Planning and Decision-Making

**Thesis 6**

Implementing ESDP and CFSP in tandem will require a fundamental shift in mindset from security policy in stovepipes to an integrated understanding of security policy.

There are two different trends that increase the demand for integrated rather than fragmented security policy.\(^{27}\) First, new security challenges blur the distinction between peace and war and between domestic and foreign matters.\(^{28}\) Since the end of the cold war we have witnessed a new "security dilemma." Low intensity conflicts, or asymmetrical challenges, are on the rise. They break out within rather than between states and societies; they involve a growing number of rogue non-state actors; these non-state actors adhere to old ways of fighting war by using light arms and small weapons and bringing war into the cities, thereby injuring innocent citizens.\(^{29}\) Addressing these low intensity conflicts requires a new type of operation that falls into the confines of military and police tasks, thus requiring a new form of security force that


\(^{29}\) Hans-Georg Ehrhart, "Die Europäische Union, die ESVP und das neue Sicherheitsdilemma," WeltTrends 38 (Frühjahr 2003), pp. 135-144.
The (not so) common ESDP integrates existing military, police, and civilian capabilities. Second, there is a need for coherence among the EU's various instruments in the fields of trade, development aid, and foreign, security and defense policy. Harmonizing and synchronizing the application of these instruments becomes more challenging in an enlarged Union. The draft treaty for a European convention was therefore right to advocate the creation of the post of European foreign minister, the increased use of qualified majority voting in CFSP, and finding new ways to finance external action. It should be added, that more most be done at the conceptual level to increase the integration of the different EU policy areas and the cooperation with other intergovernmental, state and non-state actors.

Above all, the plea for integrated security policy requires a shift in mind sets that will lead to a comprehensive realignment of policy planning and decision-making processes (see thesis 7). Three core ideas lie at the heart of the concept of integrated security policy: network centricity, joint capabilities, and co-operability.

**Network centricity:** Students of security policy have so far applied the idea of network centricity to warfare. They have argued that the networking of sensors, decision makers, and shooters will help achieve "shared awareness, increase speed of command, higher tempo of operations, greater lethality, increase survivability, and a degree of self-synchronization." The basic principle behind this vision – i.e., the systematic interlocking by all relevant actors to create added value in fighting new risks – should be embraced as the core principle of and integrated security policy. Network centricity thus demands a smooth interplay among all

- security sector actors to advance cross-institutional cooperation;
- diplomatic, civilian, economic, and military instruments that can be used to prevent and fight conflicts and to provide post-conflict stabilization;
- levels of interaction, that is, sub-national, national and international, that need to be taken into account to reach consensus about what to do and how to implement joint measures.


**Joint capabilities:** There can be no doubt that Armed Forces, police, and boarder and other security forces will continue to require specific individual capabilities. However, the need to come of up with a "force package" that is better adapted to the new challenges opens the door for identification of those capabilities that will be needed by the security forces involved. Capabilities that support network centricity will be key, such as C4ISR and Critical Information Infrastructure Protection (CIIP). As most modern conflicts arise far beyond the homeland, there is an increased need for joint mobility at land, sea, and in the air. The lethality of the environment in which security forces operate demands joint capabilities in the fields of CBRN protection, (combat) search and rescue, and precision effects (including non-lethal weapons). Joint capabilities should be identified, procured, and maintained in a coordinated way. To this purpose, it makes sense to build on the idea of role specialization and pooling of resources among the different national and international security forces.

**Co-operability:** It has been argued that Armed Forces must become co-operable in the sense of functioning together more or less seamlessly as an "integrated actor."33 This pledge is all the more valid when we look at the combination of different security forces. Co-operability means that today's security forces must overcome their stovepipes and join forces in adopting a holistic perspective and setting-up joint planning and decision-making processes that cut across existing organizations. First, improved co-operability requires a higher degree of intelligence sharing in order to create converging threat assessments. Without consensus at this level, it will be impossible to agree on a joint strategy and to optimize funds, forces, and capabilities. Second, common standards for processes, structures, and material are needed. What NATO has achieved with regard to the interoperability of Armed Forces needs to be expanded to cover all security forces. Finally, joint training and exercises are indispensable to test the usability of joint doctrines, planning, and standards in practice.

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With regard to multinational military cooperation, Marc Houben and Dirk Peters have pointed out that "the successful deployment of multinational units requires the synchronization of national decision-making procedures. (...) [I]n order to achieve synchronization, the character of national decision-making processes of the participating states has to be taken into account."\textsuperscript{34} The prospect of applying the new EU treaty's provisions on flexible cooperation to the field of multinational forces increases the need to address this issue more seriously.\textsuperscript{35} As was argued in thesis 6, this argument can be developed one step further by positing that ESDP will require comprehensive harmonization of national planning, budgeting, and decision-making processes.

**Planning:** Member states of the Euro-Atlantic area have a decade of experience in coordinating defense planning within NATO. By contrast, the EU has only recently embarked on dealing with security policy challenges and is just about to establish planning and certification processes of its own. However, the task of coordinating planning under the ESDP/CFSP umbrella will be more challenging, because the spectrum of instruments that need to be brought in line is much wider than within the Alliance. At the national level this increases the need to plan, implement, and evaluate security policy in an integrated way, meaning across different ministries and agencies. The public sector in most EU member states is not yet ready for network centric policy making. Although some countries have established national security councils to coordinate the respective policies (such as Germany, Switzerland, and Austria), the organizational autonomy of the relevant ministries remains untouched, which opens the door for rivalry between the coordinating body and the "stovepipes." Besides the need to push back the influence of individual ministries and agencies in favor of more "jointness," EU planning goals and tasks – e.g., in the form of convergence criteria – need to be properly integrated into national policy goals and policy


\textsuperscript{35} Udo Diedrichs and Mathias Jopp, "Flexible Modes of Governance: Making CFSP and ESDP work," *The International Spectator* 38:3 (July 2003), pp. 15-30, here p. 29.
definition processes. In this context the adoption of role specialization and pooling of resources will increase the challenges for planners, because these approaches demand new ways to:

- assess national contributions (e.g., How to compare high tech contributions with "boots on the ground"?, How to compare different life-cycle costs with regard to the equipment contributed to multinational units? Is "check book diplomacy" accepted when "sharing the front line" is asked for?)
- evaluate the performance of multinational European units and
- establish controlling and reporting processes involving the necessary national and European organizations.

**Budgeting:** The more that security policy is planned, implemented, and evaluated in an integrated way, the harder it will get to continue to establish separate budgets for military forces, police forces, border control, or other foreign and security policy tasks. There is thus a growing trend in favor of comprehensive security budgets. This perspective will provide one of the few opportunities to beef-up security spending at all. At the same time, security budgets could increase spending flexibility, because it will be easier to shift the focus from one "budget line" to another when they are summarized under the same heading. This, however, creates at least two new challenges. First, security budgets need to be set up against an interagency perspective, thus increasing the need to work across organizational boundaries. Second, comprehensive security budgets could encroach upon the rights of the parliaments. This highlights the need to adopt new ways of cooperation between the ministries and the parliaments and to strengthen the latter's capabilities to accomplish this task.

**Decision-Making:** International deliberations during NATO's Operation Allied Force and the run-up in the Security Council before the U.S.-UK attack on Iraq were ample proofs of decision-making problems in times of crisis and war. The more the EU gets involved in security issues, the more attention needs to be paid to the smooth cooperation between military and political decision-makers at the top level. Three issues will be key. First, decision-making under stress requires seamless communication among the capitals and their representations in Brussels. Among other things, this requires adequate staffing of the liaison offices, the provision of powerful data links between Brussels and the capitals, and the
establishment of crisis-prone decision-making structures at the national level. Second, technological innovations that support network-centric warfare can dramatically reduce the sensor to shooter cycle and thus the time available for decision-making at the military level. While this is beneficial to the conduct of military operations, the political side of the equation has not yet witnessed a "revolution in decision-making." There is thus an increasing danger of asymmetric decision-making processes at the politico-military interface. If both sides fail to address this issue, the effectiveness of effects based operations and the achievement of the overall political goals will be seriously hampered. Finally, as long as the European Union has no supranational forces of its own, this discussion also needs to take into account the differences among European political systems and styles of political decision-making. Institutional (in)compatibility and differing judicial requirements with regard to the use of force may thus accelerate or slow-down decision-making in times of crisis.

36 For an in-depth analysis, see: Cord Meier-Klodt, Einsatzbereit in der Krise? Entscheidungsstrukturen der deutschen Sicherheitspolitik auf dem Prüfstand (Berlin: SWP, 2002).
The (not so) common ESDP

Conference Report

Speakers

Klaus Kleffner

Dr. Heiko Borchert

Boris Ruge

Annalisa Monaco

Prof. Joachim Krause
The (not so) common ESDP

Conference Report

Speakers

Dr. Bernd Martenczuk

Prof. Stefan Griller
## List of Participants

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<tr>
<td>Afsah, Ebrahim</td>
<td>MPI</td>
</tr>
<tr>
<td>Bimmel, Walter</td>
<td>BMVG</td>
</tr>
<tr>
<td>Brendel, Thomas</td>
<td>Uni Frankfurt</td>
</tr>
<tr>
<td>Dagron, Stephanie</td>
<td>Uni Heidelberg</td>
</tr>
<tr>
<td>Drüner, Dietrich</td>
<td>Uni Konstanz</td>
</tr>
<tr>
<td>Dzhydzhora, Volodymyr</td>
<td>Erfurt School of Public Policy, former Head of Political Section of the Embassy of the Ukraine to the Islamic Republic of Iran (1997-2001)</td>
</tr>
<tr>
<td>Fath-Lihic, Annette</td>
<td>Humboldt Universität Berlin</td>
</tr>
<tr>
<td>Garkun, Natalia</td>
<td>Uni Hamburg</td>
</tr>
<tr>
<td>Guder, Leonie</td>
<td>MPI</td>
</tr>
<tr>
<td>Hanschmann, Felix</td>
<td>Uni Frankfurt</td>
</tr>
<tr>
<td>Kemmerer, Alexandra</td>
<td>Jean-Monnet-Lehrstuhl für Europarecht, Institut für deutsches und ausländisches öffentliches Recht, Völkerrecht und Europarecht der Universität Würzburg; FAZ</td>
</tr>
<tr>
<td>Kravtsova, Nataliya</td>
<td>Erfurt School of Public Policy; Diplomaten-Akademie der Ukraine</td>
</tr>
<tr>
<td>Lauterfeld, Marc</td>
<td>Syndikusanwalt Union Asset Management Holding AG, Frankfurt/Main; Düsseldorfer Institut für Außen- und Sicherheitspolitik [DIAS]</td>
</tr>
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<td>Name</td>
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<tr>
<td>Paepcke, Henrike</td>
<td>Düsseldorfer Institut für Außen- und Sicherheitspolitik [DIAS]; Council on Foreign Relations, Washington D.C.</td>
</tr>
<tr>
<td>Reichard, Martin</td>
<td>MPI</td>
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<tr>
<td>Schlichte, Johannes</td>
<td>Uni Frankfurt/Oder</td>
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<tr>
<td>Schmidt-Drüner, Marion</td>
<td>Uni Konstanz</td>
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<tr>
<td>Simon, Annette</td>
<td>MPI</td>
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<tr>
<td>v. Alemann, Florian</td>
<td>Uni Berlin</td>
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<tr>
<td>Weerth, Wilhem</td>
<td>Kremsner &amp; Consultants, Frankfurt/Main</td>
</tr>
<tr>
<td>Weidemann, Annika</td>
<td>Institut für Sicherheitspolitik Kiel</td>
</tr>
<tr>
<td>Westphal, Dietrich</td>
<td>MPI</td>
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