

# The Council Secretariat's Role in the Common Foreign and Security Policy

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# The Council Secretariat's Role in the Common Foreign and Security Policy\*

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*The Council Secretariat, under the leadership of Javier Solana, has become an indispensable actor in the context of the CFSP. This article gives a comprehensive overview of the development path of this EU institution since the beginning of European Political Cooperation. It argues that with the entry into force of the Amsterdam Treaty and the parallel Cologne European Council (both 1999) it received at once a political and a military dimension. This has been the basis for a significant expansion during the last decade. From a wider perspective it shows that the Council Secretariat fills the political absence of the European Commission in the field of the CFSP. The Council Secretariat is basically strong in areas where the Commission is weak. These inter-institutional dynamics are important with a view to the Reform Treaty, which will see a partial merger of the CFSP services in both institutions. Lastly this article argues on a fundamental level that while these developments are significant, the rationale behind the Council Secretariat is different from the role of the Commission in the first pillar and this limits its potential.*

## I Introduction

The Council Secretariat was until recently not a 'very well-illuminated corner of the EU's institutional architecture'.<sup>1</sup> This has slightly changed. Several observers describe in detail how the institution has evolved in the first pillar due to its continuity, experience and 'institutional memory'.<sup>2</sup> The Council Secretariat is no longer just a 'conference centre', a 'note-taker' and a 'legal adviser'; it is also a 'political counsellor' to the Presidency and an 'honest broker' in the negotiations between Member States. The Council Secretariat

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\* This article is based on interviews with officials from the Council Secretariat, the European Commission and the Permanent Representations in May-July 2006 and May-June 2007.

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<sup>1</sup> The Council Secretariat is formally called the General Secretariat of the Council of the European Union; T. Christiansen, 'Out of the Shadows: The General Secretariat of the Council of Ministers' (2002) 8 *Journal of Legislative Studies*, p. 81. In this article Christiansen outlines the three functions of the Secretariat discussed in this introduction.

<sup>2</sup> E.g. M. Westlake and D. Galloway (eds), *The Council of the European Union* (3rd edn, John Harper, London, 2004); F. Hayes-Renshaw and H. Wallace, *The Council of Ministers* (2nd edn, Palgrave Macmillan, London, 2006).

operates nonetheless behind the scenes under the guidance of the Presidency. If its officials speak in the Council working groups, it is to provide legal advice or to discuss technical issues. These first pillar responsibilities constitute the 'traditional' business of the Council Secretariat and consume the majority of its resources.

A second responsibility of the Council Secretariat is its role in Treaty reform. Since the Maastricht Treaty it provides during the course of an Intergovernmental Conference (IGC) the resources for the IGC Secretariat. This makes the Council Secretariat an influential player. Two close observers even go so far as to argue that the Council Secretariat was the key actor in the Nice IGC (2000) together with the Presidency, because of its expertise and the information rich environment.<sup>3</sup> Apart from these anecdotal observations, a number of articles gives a more detailed and theoretical account of the role of the Council Secretariat in Treaty reform.<sup>4</sup> While its position is arguably stronger during the Intergovernmental Conferences than in the first pillar, the Secretariat again remains in the background in order to guarantee its neutrality as an honest broker.

The third, and final, function of the Council Secretariat concerns its role in the context of the EU's Common Foreign and Security Policy (CFSP). This responsibility has developed significantly under the leadership of Javier Solana (1999-present) and it differs fundamentally from the other two tasks. Whereas the Council Secretariat's influence results from being 'distinctly quiet' in the first pillar and during the IGCs, in the CFSP it is speaking out loud.<sup>5</sup> Not only does Solana at the political level issue his daily statements; officials from the foreign policy directorates also express their views openly in the various working groups. And yet despite this outspokenness and despite Solana being lauded in the media as the EU foreign policy chief, he and his institution have received limited attention in academia. Many publications do mention Solana, the Policy Unit or the EU Military Staff (EUMS), but few of them address the Council Secretariat specifically. The Secretariat therefore remains to this date somewhat 'in the shadows'.

This article tries to give a comprehensive account of the development and the changing role of the Council Secretariat since the beginning of European Political Cooperation (EPC). It fits in with a growing body of literature on the administrative governance of the CFSP.<sup>6</sup> In line with these publications, this article argues that these institutional structures 'matter' for the outcomes of the CFSP and that these structures are thus worth studying. The Council Secretariat matters in European foreign policy and it matters more and more. And yet this article also argues that the Council Secretariat does not have the potential to become the equivalent of the European Commission in, for

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<sup>3</sup> M. Gray & A. Stubb, 'Keynote article: The Treaty of Nice – Negotiating a Poisoned Chalice?' (2001) 39 *Annual Review of the JCMS*, pp. 5-23.

<sup>4</sup> D. Beach, 'The unseen hand in treaty reform negotiations: the role and influence of the Council Secretariat' (2004), 11 *Journal of European Public Policy*, pp. 408-439; T. Christiansen, 'The role of supranational actors in EU treaty reform' (2002) 9 *Journal of European Public Policy*, pp. 33-53.

<sup>5</sup> Christiansen (2002) op. cit., see note 1.

<sup>6</sup> S. Duke and S. Vanhoonaeker, 'Administrative governance in the CFSP: development and practice' (2006) 11 *EFA Rev.*, pp. 163-182; S. Duke, 'The Linchpin Cops: Assessing the workings and institutional relations of the Political and Security Committee' (2005) *EIPA Working Paper*; A.E. Juncos and C. Reynolds, 'The Political and Security Committee: Governing in the Shadows' (2007) 12 *EFA Rev.*, pp. 127-147; A.E. Juncos and K. Pomorska, 'Playing the Brussels game: Strategic socialisation in the CFSP Council Working Groups' (2006) *European Integration online Papers*; S. Duke, 'The Commission and the CFSP' (2006) *EIPA Working Paper*; D. Spence, 'The European Commission and the Common Foreign and Security Policy' in D. Spence with G. Edwards (eds), *The European Commission* (John Harper, London, 2006).

example, the internal market, because the *raison d'être* for such an autonomous supranational bureaucracy is absent in the CFSP.

The CFSP services in the Council Secretariat were created over time to limit the administrative burden of the rotating Presidency and the Member States. It was a sensible way of reducing the transaction costs of cooperation and thus yielding positive efficiency payoffs for the Member States. Because the Member States, and in particular France, were afraid of too much European Commission involvement in the area of 'high politics', they decided to continue to keep the latter at arms length by delegating various tasks to the Council Secretariat. The Secretariat is thus performing the tasks the Commission is not allowed to do. It fills a specific niche: nature abhors a vacuum.<sup>7</sup>

This article will first give a short historical overview of the Council Secretariat and its predecessor, the EPC Secretariat, until the end of the 1990s. In parallel it will subsequently discuss the Council Secretariat's 'political dimension', which was as a result of the Amsterdam Treaty, and its 'military dimension' resulting from the Cologne European Council (both 1999). It will conclude by discussing the possible bureaucratic merger that lies ahead as a result of the Reform Treaty.

## **II The historical perspective (1970-1999)**

The CFSP is perhaps mostly identified with the word 'intergovernmental' and still reflects much of the legacy of President De Gaulle and his failed Fouchet Plans (1959-1963). The most prominent feature of these plans was to keep the European Commission in all foreign policy discussions at arms length. A Paris-based secretariat ('Political Commission') would support the Member States in counterbalancing the United States as the sole Western superpower. While this blueprint for an 'intergovernmental Europe' never entered into force due to resistance of the integrationist and Atlanticist Member States, it was clear that the Commission would not become an equitable player in foreign policy coordination any time soon.

In the Luxembourg Report (1970), which formally established European Political Cooperation, the European Commission was only to 'be consulted if the activities of the European Communities [were] affected by the work of the Ministers'.<sup>8</sup> While this gave it some influence when economic issues were discussed, it was only with the London Report (1981) that the Commission became 'fully associated' with the conduct of EPC. It meant access to all the meetings and documents, but the formal powers which the Commission enjoyed in the first pillar remained out of the question. To this date, despite having significantly increased its influence in the CFSP, the Commission has never been able to play the role it is used to in the Communities.

It is necessary to point out that within foreign policy coordination there was also no need for a strong Commission. As rational choice institutionalists argue the Commission's main purpose in the first pillar is to ensure 'credible commitments' among Member States – that is compliance with the Treaties and secondary legislation – through

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<sup>7</sup> Duke and Vanhoonacker (2006) note that the Presidency and the Council Secretariat 'fill the vacuum (...) of the [Commission] in the CFSP', op. cit., see note 6, p. 180. This article substantiates this claim.

<sup>8</sup> Luxembourg Report 1970, article V.

for example independently monitoring the agreements.<sup>9</sup> Yet within EPC there was no formal substantive treaty to abide by. It consisted of constantly reformulating policy towards third countries and regions and was in this respect clearly a ‘coordination’ rather than ‘collaboration’ game. In such a game there is no incentive for Member States to defect from the coordinated agreement once it has been reached by consensus, because the payoffs of this collective action are always higher than of individual action through the ‘politics of scale’ which are achieved.<sup>10</sup>

Even if Member States defected, it was often no longer possible to remedy the damage by an infringement procedure or court action. It would have been, for example, impossible to undo the German unilateral recognition of Slovenia and Croatia in 1991, because it was a one shot-event at one particular moment. Supranational bureaucracy could not play a role here.<sup>11</sup> The rationale for the establishment of supranational bureaucracy in foreign policy must therefore instead be sought in the reduction of the transaction costs of cooperation (efficiency) rather than in ‘credible commitments’.

Since EPC was formally created outside the Communities’ framework, it was initially the idea of the Member States to fill the Commission’s absence with an independent secretariat. This secretariat – comparable to, yet smaller than the Communities’ Council and Parliament Secretariats – could take care of some of the supporting functions such as arranging rooms and translators. The choice of the location proved, however, insurmountable. Whereas the integrationist Member States preferred Brussels, because of possible synergies with the Communities’ institutions, France championed Paris, especially to avoid spillover caused by the ‘Europeanization’ process. Because of this disagreement the Member States decided in the Luxembourg Report instead to delegate the supporting tasks to the host state (the Presidency). For the first seventeen years of its existence, the EPC activities thus took place in the country holding the Presidency without the help of a secretariat and it became a ‘biannual travelling circus with as only continuity an archive suitcase being transported from capital to capital’.<sup>12</sup>

Over the years some improvements were made, such as the Troika Secretariat of the London Report (1981), in which the incoming and outgoing Presidencies seconded one national diplomat to the foreign ministry of the Presidency-in-office to mitigate the EPC’s increasingly heavy administrative burden. It was furthermore a way to improve the continuity between the Presidencies, something which was badly needed after the EPC breakdown during the Russian invasion in Afghanistan over the Christmas holidays (1979). Foreign ministers furthermore decided to synchronize their Communities’ and EPC agendas after the infamous day that they discussed EPC matters in Copenhagen in the morning before flying to Brussels to debate Communities’ affairs in the afternoon. Yet

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<sup>9</sup> E.g. M.A. Pollack, ‘Delegation, agency, and agenda-setting in the European Community’ (1997) 51 *International Organization*, pp. 99-135; A. Moravcsik, *Choice for Europe: Social Purpose and State Power from Messina to Maastricht* (Cornell University Press, Ithaca, 1998).

<sup>10</sup> See for a more elaborate explanation: W. Wagner, ‘Why the EU’s Common Foreign Policy Will Remain Intergovernmental: A Rationalist Institutionalist Choice Analysis of European Crisis Management Policy’ (2003) 10 *Journal of European Public Policy*, pp. 576-595; ‘Politics of Scale’ was introduced by R. Ginsberg, *Foreign Policy Actions of the European Community: The Politics of Scale* (Lynne Rienner, Boulder, 1989)

<sup>11</sup> Wagner (2003), op.cit., see note 10.

<sup>12</sup> S. Vanhoonacker and H. Dijkstra, ‘EU-Raadsecretariaat en Europees buitenlands beleid: Méér dan een griffier’ (2006) 60 *Internationale Spectator*, p. 636.

EPC remained throughout the early years, as Nuttall famously recalls, a ‘club run by diplomats for diplomats’.<sup>13</sup>

The situation changed after the Single European Act (SEA), which formally brought the European Communities (EC) and EPC together in one legal document. It was however only the piece of paper that could genuinely be described as single. Article 3 of the *chapeau* language clearly separated the EC and EPC in different titles. These titles can be seen as the predecessors of the Maastricht pillars. Between these titles there was little interaction and the Communities’ institutions remained excluded from much of the foreign policy decision-making. The SEA did create a small-scale and independent EPC Secretariat in Brussels, which was rather revolutionary given the earlier location disputes. It replaced the Troika Secretariat and it meant that EPC finally had a permanent base.

The EPC Secretariat was a watered-down version of a proposal by President Mitterrand to establish a high-level independent Secretary General in charge of foreign policy coordination. The Secretariat’s formal role was to ‘assist the Presidency’ and for this purpose it had five national seconded diplomats and a head of secretariat at its disposal.<sup>14</sup> These diplomats received national salaries and according to their legal status they were formally based at the permanent representations. The offices of the EPC Secretariat were located on the twelfth floor of the Charlemagne building, which housed at the time the EC Council Secretariat; yet it was not formally part of it: a combination lock at the entrance of the EPC Secretariat made clear that even under the Single European Act, foreign policy and Communities’ affairs remained two worlds apart.<sup>15</sup>

Despite its limited formal role, the influence of the EPC Secretariat developed steadily.<sup>16</sup> This happened in a similar fashion as the EC’s Council Secretariat was gaining influence over time – due to its experience, continuity and ‘institutional memory’. In addition, the Head of the Secretariat sometimes represented the Presidency to the outside world as regards EPC matters, as the revolving Presidency still meant that EPC had otherwise no Brussels base.<sup>17</sup> The first SEA Presidency was furthermore Belgium. Due to its integrationist preferences, it gave the Secretariat quite some autonomy.<sup>18</sup> This set an important precedent for future presidencies. And yet the EPC Secretariat’s main role concerned facilitating the coordination process between the Member States. The Presidency remained firmly in charge of the conceptual work.

While EPC was re-branded in the Common Foreign and Security Policy (CFSP) during the Maastricht Treaty (1993) to take on the new challenges of the post-Cold War era, the institutional structure was not significantly altered. The Commission gained the shared right of initiative, but its hopes for a full *rapprochement* between the Communities and EPC activities were shattered by the pillar structure. The EPC Secretariat was integrated in the EC Council Secretariat’s Directorate-General for External Relations (DG E) and became known as the CFSP unit. It was furthermore strengthened with one

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<sup>13</sup> S. Nuttall, *European Foreign Policy* (Oxford University Press, Oxford, 2000), p. 272.

<sup>14</sup> Art. 10(g) SEA.

<sup>15</sup> Nuttall (2000) op. cit., see note 13

<sup>16</sup> E. Regelsberger, ‘The Setup and Functioning of EPC/CFSP’ in E. Regelsberger, P. De Schoutete de Tervarent and W. Wessels (eds), *Foreign Policy of the European Union: From EPC to CFSP and Beyond* (Lynne Rienner, London, 1997).

<sup>17</sup> Nuttall (2000) op. cit., see note 13

<sup>18</sup> P.S. Da Costa Pereira, ‘The Use of a Secretariat’ in A. Pijpers et al. (eds), *European Political Cooperation in the 1980s: A Common Foreign Policy for Western Europe?* (M. Nijhoff, Dordrecht, 1998). While Belgium had preferred that these new services were placed in the Commission rather than in an independent secretariat, it felt that it was best to make most out of the Secretariat.

seconded national official per Member States, twelve officials from the Council Secretariat, one Commission official and a head of unit (26 in total). In addition to the CFSP unit, DG E included the directorates dealing with the external relations of the Communities (trade and development).

The dichotomy of the SEA continued to exist within this Directorate General. The split between the external economic relations' directorates and the CFSP unit was not only a formal division; there was also a difference in their daily tasks. In the field of external economic relations the Commission was clearly the leading supranational institution. This meant that the directorates of the Council Secretariat were mainly concerned with the 'traditional' tasks of the Secretariat. The situation was different in the second pillar, where the Commission had a more limited role. This vacuum gave the CFSP unit ample room to assist the Presidency on substantive and conceptual issues, such as drafting agendas and providing policy papers. Over the years these responsibilities increased. Despite the split, there was also considerable overlap between the CFSP unit and the external relations directorates. Both structures were mainly regionally orientated. While this had to do with the parallel EC and CFSP working groups, it did not improve consistency.

The CFSP unit stayed roughly the same during the larger part of the 1990s; and should be seen as a continuation of the EPC Secretariat. The changes of the Amsterdam Treaty would however prove profound. Shortly after the national leaders had left Maastricht, Germany unilaterally recognized Slovakian and Croatian independence exposing European solidarity and the newly created CFSP. A few months later the disintegration of Yugoslavia led to an open war in Bosnia-and-Herzegovina. The CFSP machinery was not designed to deal with the EU's prime foreign policy concern in the 1990s – the Balkan conflict in its own backyard. One could expect from the CFSP unit to facilitate the coordination process among Member States, but not to guarantee the convergence of their preferences. Questions about the visibility, continuity and effectiveness of the CFSP were to be addressed at the Amsterdam summit, which brought the CFSP to a higher level.

### **III The political dimension**

In a reaction to Europe's failures over Bosnia, France picked up Mitterrand's old idea of having a 'Secretary General' for foreign policy. This would give the CFSP greater visibility and continuity. The French initially had their former President Valéry Giscard d'Estaing in mind.<sup>19</sup> Since this idea met with resistance from almost all the other Member States the initial proposals were significantly watered down in the course of the negotiations. At the end of the day, the 'High Representative for the CFSP' did not become an independent agent, but is based in the Council Secretariat. He fulfils at the same time the duties of the Secretary General of the Council (SG/HR) and assists rather than supersedes the Presidency.<sup>20</sup> What remained unclear at the summit was whether the SG/HR would be a politician or a bureaucrat. This decision was delayed until 1999.

The outside world did not wait for the Union to have its High Representative. Before the Treaty entered into force the EU was faced with the Kosovo crisis (1998/9). Its response was again inadequate. After various rounds of failed negotiations US leadership

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<sup>19</sup> A. Moravcsik and K. Nicolaidis, 'Explaining the Treaty of Amsterdam: Interests, Influence, Institutions' (1999) 37 *Journal of Common Market Studies*, pp. 59-85.

<sup>20</sup> Art. 18(3) and 26 TEU.

put an end to the conflict via NATO air strikes (24 March-11 June 1999). In the midst of this campaign the EU Member States gathered to appoint the SG/HR (Cologne European Council 3-4 June). The Amsterdam Treaty had, after all, entered into force a month earlier. Given this international context, there was no way but to appoint a high-level political figure. Javier Solana – the successful NATO Secretary General – was recruited for the job and he entered office in October.

It is safe to state that Solana developed his position significantly. In the beginning the various Presidencies kept him at a short rein, especially when photo-opportunities arose. The United Kingdom furthermore prevented him from becoming the permanent chairman of the Political and Security Committee (PSC) – a French proposal.<sup>21</sup> Over time he gained however respect due to his effectiveness. During his reappointment in 2004, he was designated by the European Council as the future EU foreign minister, a position foreseen at the time in the Constitution. This *de facto* status, together with the momentum of the various military and civilian missions, significantly strengthened his position. The German Presidency (first half 2007) decided that he could chair various ministerial troikas, in which case they sent an undersecretary to clearly show Solana was in charge.<sup>22</sup> In the Reform Treaty the ‘High Representative of the Union for Foreign Affairs and Security Policy’ formally chairs the General Affairs Council.

At the administrative level, the choice for a top-level politician inevitably meant a strengthening of the private office (Solana’s cabinet). Currently Solana can benefit from the support of a head of cabinet, a deputy head of cabinet and four political counsellors. The Deputy Secretary General, Pierre de Boissieu, has his own head of cabinet, albeit in the same private office.<sup>23</sup> These cabinet members are either seconded national officials or permanent Council Secretariat staff members and cover the major nationalities (Spain, France, Germany, United Kingdom, the Netherlands and Sweden). Only one is a direct political appointee. The private office has, however, not yet developed into a real cabinet. Rather than making overall strategic decisions and giving political guidelines, the officials are busy with coordinating Solana’s agenda. Each of the four counsellors, in this respect, has its regional and thematic dossiers.<sup>24</sup>

The private office of the SG/HR has direct oversight over a number of services, some of which one could refer to as constituting the ‘extended cabinet’. These include the Policy Planning and Early Warning Unit (better known as Policy Unit) and the EU Personal and Special Representatives. The Joint Situation Centre (SITCEN), the EU Military Staff (EUMS) and the Civilian Planning and Conduct Capability (CPCC) also directly report to the SG/HR (see ‘military dimension’ below).

During the negotiations on the Amsterdam Treaty, the creation of the Policy Unit was uncontroversial.<sup>25</sup> In light of the Bosnian War a strengthening of the CFSP services

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<sup>21</sup> The PSC (2000-present) replaced the monthly meeting of the Political Directors in the Political Committee. As a permanent Brussels-based body it meets twice a week and deals with most of the issues on the General Affairs and External Relations Council’s agenda. Duke (2005) op. cit.; Juncos and Reynolds (2007) op. cit., see note 6.

<sup>22</sup> Interview with Council Secretariat official.

<sup>23</sup> Art. 207 TEC stipulates that the ‘Deputy Secretary-General [is] responsible for the [day-to-day] running of the General Secretariat’. This was a compromise to strengthen the foreign policy profile of the SG/HR.

<sup>24</sup> Interviews with Council Secretariat officials.

<sup>25</sup> S. Duke, ‘The Common Foreign and Security Policy: Significant but Modest Changes’ in F. Laursen (ed.),

seemed necessary and the Policy Unit would support the newly created High Representative in its strategic work by, for example, monitoring and analyzing relevant developments, providing relevant strategic assessments, and drafting ‘argued policy options papers’.<sup>26</sup> In other words, the officials in the unit are ‘Solana’s eyes and ears’.<sup>27</sup> The Policy Unit is mainly organized along regional taskforces and consists of one seconded national official per Member State, a Commission representative, and staff members from the WEU and the Council Secretariat (in total 31).<sup>28</sup>

The Policy Unit has, however, never lived up to its high expectations. The quality of some of the seconded national officials has proved rather disappointing. National capitals and the Commission have also been reluctant in sharing their diplomatic memoranda with their own members in the Policy Unit.<sup>29</sup> This has limited its potential. The injection of seconded national officials at the highest level of European foreign policy also created friction with DG E. The task forces of the Policy Unit were in clear competition with DG E’s regional directorates. While the Policy Unit stressed it was working for Solana, DG E never accepted working solely for the Presidency. The division of labour was thus not very successful, and as a result of the fifth enlargement round, it was decided to integrate parts of the Policy Unit in the DG E’s regional directorates.<sup>30</sup> The Policy Unit has, however, proved ‘sticky’ as an organization; it is in the Treaties, so it cannot be abandoned.

The EU Special Representatives were also created in the Amsterdam Treaty as a codification of the EU Special Envoys.<sup>31</sup> Their task is to ‘promote EU policies and interests in troubled regions and countries and play an active role in efforts to consolidate peace, stability and the rule of law’.<sup>32</sup> While they are appointed by the Council via a Joint Action, they report to Solana and support his work; they are his ‘face’ and his ‘voice’ on the ground.<sup>33</sup> Financing the EUSR is interesting in that the EUSR him/herself and the logistics are paid for by the CFSP budget, while his/her staff contains of seconded national officials paid by the Member States. Several Member States have used this opportunity to further their interests.<sup>34</sup>

In some cases the EUSR is part of a ‘double-hatting’ arrangement, which strengthens his/her position. Erwan Fouéré, the EUSR in Macedonia, is for example also the Commission’s head of delegation. Miroslav Lajčák, the EUSR in Bosnia-and-Herzegovina, also carries out the tasks of the UN’s Office of the High Representative. A similar arrangement is foreseen for the future EUSR in Kosovo. While the idea behind appointing EUSRs was to create more EU consistency within conflict regions, they are often seen as an extra layer of bureaucracy, they have regular turf battles with the

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*The Amsterdam Treaty: National Preference Formation, Interstate Bargaining and Outcome* (Odense University Press, Odense, 2002).

<sup>26</sup> The full task description can be found in article 2 of the ‘Declaration on the Establishment of a Policy Planning and Early Warning Unit’, attached to the Amsterdam treaty.

<sup>27</sup> F. Cameron, *An Introduction to European Foreign Policy* (Routledge, London, 2007), p. 49.

<sup>28</sup> Council of Ministers, *Extract from the Interinstitutional Directory – January 2007* (Office of Official Publications of the European Communities, Luxembourg, 2007).

<sup>29</sup> Interviews with Council Secretariat officials.

<sup>30</sup> The fifth enlargement round saw an expansion of the Policy Unit with the number of seconded national diplomats increasing from fifteen to twenty-seven.

<sup>31</sup> Art. 18 TEU; G. Grevi, ‘Making EU Foreign Policy: The Role of the EU Special Representatives’ (2007) 5 *CFSP Forum*, pp. 1-5.

<sup>32</sup> Council of Ministers, *EU Special Representatives Factsheet* (2007).

<sup>33</sup> Ibid.

<sup>34</sup> Interviews with Council Secretariat and European Commission officials.

Commission delegations and they have proven unnecessary when it comes to civilian ESDP missions.<sup>35</sup> EUSRs should not be mistaken with Solana's Personal Representatives, yet another part of his 'extended cabinet'. The Personal Representatives deal with the thematic issues such as non-proliferation, the fight against terrorism, human rights, and parliamentary affairs.

The Amsterdam Treaty did not only restructure and strengthen the political level of the Council Secretariat; it also had a major impact on the bureaucracy of DG E. The two distinct branches of foreign policy (trade and development & CFSP) in DG E were finally merged and the various directorates were significantly strengthened.<sup>36</sup> Seconded national officials were furthermore replaced by permanent officials over time. The DG E was again expanded as a result of the inclusion of staff from the Policy Unit (2004) and through the creation of two ESDP directorates (2001). In total DG E currently consists of almost 200 A-grade officials and has special New York and Geneva offices to facilitate the EU coordination process at the international organizations.

The daily tasks of the various directorates range from the 'traditional' business of the Council Secretariat in the development and trade directorates to full executive tasks in the ESDP directorates. The yardstick, against which the DG E's activities should be measured, negatively correlates with the European Commission's competences. In case of a strong Commission (e.g. trade; enlargement; EU-Asia relations), the Council Secretariat is weak and merely carries out supporting tasks. In case of a weak Commission (e.g. ESDP; Middle-East; Afghanistan), the Council Secretariat takes the lead. It is worth mentioning that these tasks are accumulative. Even though the officials in the ESDP directorates carry out advanced executive functions, they still remain responsible for booking rooms, arranging translation and making the minutes. This is different from NATO, where in the International Staff the conceptual work is split from the 'conference centre' activities.<sup>37</sup>

While DG E was developed significantly it is necessary to state that, with the exception of the ESDP directorates, the rationale behind the Council Secretariat has not dramatically changed since the EPC Secretariat of the SEA. It still helps to limit the transaction costs the Member States encounter from cooperation in the field of foreign policy. In this coordination game, the Council Secretariat officials improve the efficiency of decision-making through their expertise, their continuity and institutional memory. They generally do not contribute to 'credible commitments' and as a result the potential for possible autonomy is limited.<sup>38</sup>

#### **IV The military dimension**

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<sup>35</sup> Interviews with Council Secretariat officials; A. Missiroli, 'Money Matters: Financing EU Crisis Management' in A. Deighton with V. Mauer (eds), *Security Europe? Implementing the European Security Strategy* (Swiss Federal Institute for Technology, Zurich, 2006).

<sup>36</sup> A-grade officials increased from 62 (January 1999) to 77 (January 2000) to 82 (March 2001), European Commission, *Who's Who in the European Union: Inter-institutional Directory* (Office of Official Publications of the European Communities, Luxembourg, 1999; 2000; 2001).

<sup>37</sup> Interview with Council Secretariat official.

<sup>38</sup> J. Tallberg, 'Delegation to Supranational Institutions: Why, How, and with What Consequences?' (2002) 25 *West European Politics*, pp. 23-46; Sociological institutionalists would argue that the reiterated interaction between Member States, and facilitated by the Council Secretariat, does create an atmosphere of trust and even possibly convergence (Europeanization).

The Kosovo crisis not only played an important role in the appointment of Solana; it also created the momentum to establish the European Security and Defence Policy (ESDP). During the course of the 1990s France had become less wary of NATO having seen its merits in Bosnia-and-Herzegovina.<sup>39</sup> Meanwhile the new British leadership understood that the solution to all problems no longer came from across the Atlantic. The Kosovo crisis accelerated this *rapprochement*. The event painfully showed the Member States' lack of capabilities and political will to intervene. Europe's inability to deal with the crisis in its own backyard led to the bilateral Anglo-French St. Malo declaration (December 1998), which called for 'the capacity for autonomous action'.<sup>40</sup> The St. Malo agreement was quickly endorsed by the other Member States in the Cologne European Council (June 1999) in what became the European Security and Defence Policy (ESDP).

The political will to make the CFSP an operational rather than solely declaratory policy required a new institutional framework. At the Helsinki summit (December 1999) the Heads of State and Government took a first step when they directed the General Affairs and External Relations Council to set up an interim Political and Security Committee, Military Committee and Military Staff. The relevant Council Decisions entered into force on the 1 March 2000 and this arguably gave the Union a *de facto* fourth pillar.<sup>41</sup> The Helsinki European Council also tasked the French Presidency (second half 2000) to propose permanent structures. Its proposal, submitted to the Nice European Council (December 2000), was along similar lines as the interim structures. After formal approval by the Council a permanent Political and Security Committee (PSC), EU Military Committee (EUMC) and EU Military Staff (EUMS) were created.<sup>42</sup>

Whereas the PSC and EUMC are intergovernmental bodies, the EUMS is based in the Council Secretariat. Although it operates under the guidance of the EUMC, it provides EU bodies 'and, in particular, (...) the Secretary-General/High Representative' with military expertise.<sup>43</sup> Its main task is to perform 'early warning, situation assessment and strategic planning for Petersberg tasks' and to implement ESDP missions.<sup>44</sup> For this purpose it has currently 200+ personnel consisting of seconded national military and civilian officials, who are all serving a three to four years term. They are divided over various directorates, of which the Executive Office (EXO) and Civil-Military cell (CivMil cell) deserve special attention.

The EXO coordinates the work of the EUMS and ensures appropriate liaisons with the NATO, UN, and African Union, including through the special EU cell in NATO and the EU military adviser based in New York. The CivMil cell, which was initiated at the Tervuren 'chocolate' summit, tries to promote civil-military cooperation within the Council Secretariat and the European Union, and is the base of the newly created EU Operations Centre (see below).<sup>45</sup> While civil-military cooperation is supposed to be Europe's unique selling point, the CivMil cell's potential has been significantly hampered

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<sup>39</sup> A. Menon, 'From Independence to Cooperation: France, NATO and European Security' (1995) 71 *International Affairs*, pp. 19-34; R.P. Grant, 'France's New Relationship with NATO' (1996) 38 *Survival*, pp. 58-80.

<sup>40</sup> Para 2 of joint Anglo-French declaration at St. Malo.

<sup>41</sup> Council Decisions 2000/143/CFSP, 2000/144/CFSP, 2000/145/CFSP, OJ L(49) 22.2.2000, pp. 1-3.

<sup>42</sup> Council Decisions 2001/78/CFSP; 2001/79/CFSP; 2001/80/CFSP, OJ L(29) 30.1.2001, pp. 1-11.

<sup>43</sup> Art. 4 of annex of Council Decision 2001/80/CFSP, see note 42.

<sup>44</sup> Art. 2 of Council Decision 2001/80/CFSP, see note 42.

<sup>45</sup> The Tervuren summit (2003) took place against the background of the Iraq war. While Belgium had initially invited all the Member States, only France, Germany and Luxembourg showed up to make a statement on the necessity of autonomous defence capabilities.

by a lack of political will behind its ambitious mandate, and by internal turf battles within the Council Secretariat.<sup>46</sup>

In addition to the establishment of the new military structures, the ESDP also led to significant developments in DG E. Two new directorates were established in 2001, dealing with Defence Issues (Directorate 8) and with Civilian Crisis Management (Directorate 9). Their task is – in line with ‘Western democratic tradition’ – to keep ‘political/civilian oversight’ over the military. From the beginning, however, the responsibilities of both directorates differed. While the Directorate for Defence Issues could rely on the EUMS and on an Operation Headquarters (OHQ) for the implementation of operations, the Directorate for Civilian Crisis Management did not have such civilian equivalents and had to do everything by itself. As one observer put it, ‘Directorate 9 [was] at once the Directorate 8, the EUMS and the OHQ of civilian crisis management’.<sup>47</sup> This had implications for the line of command and the structure of ESDP missions. Member States realized that this was not an optimal scenario and in the course of 2007 the Directorate for Civilian Crisis Management was significantly restructured.

The permanent staff members in both Directorates were recruited through a specialized competition (*concours*); this to the frustration of WEU staff, who were under the impression that they would automatically be integrated into the Council Secretariat’s structures.<sup>48</sup> In addition to the permanent staff, large numbers of seconded national officials were contracted. In total these new directorates consisted of 43 officials at the start, but they have grown significantly. The Directorates for Defence Issues and Civilian Crisis Management consisted of 21 and 40 staff members in 2007.<sup>49</sup>

As mentioned above, in the course of 2007 the Civilian Planning and Conduct Capability (CPCC) was created to professionalize civilian crisis management. During the ESDP negotiations in 1998-2000 the focus was predominantly on military capabilities. The possibilities for civilian ESDP operations were only raised on Nordic insistence and developed during the Swedish and Danish presidencies (2001; 2002). Because the civilian branch of ESDP was a fairly late arrival, and because of French resistance, appropriate institutional structures and terms of reference were not developed. With a view to the civilian ESDP operations in Afghanistan and Kosovo (from 2007 onwards), the Member States decided to restructure civilian crisis management by making it more rigorous through the establishment of the CPCC – the civilian equivalent of the EUMS. Many functions and resources of the Directorate for Civilian Crisis Management were transferred to the CPCC, leaving it only with oversight tasks comparable to the Directorate for Defence Issues.<sup>50</sup>

### 1. *The Council Secretariat in the ESDP policy cycle*

Through the variety of these bodies the Council Secretariat has become an important player in ESDP. To get a better understanding of its influence, it is necessary to shortly

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<sup>46</sup> P. Petrov and H. Dijkstra, ‘Towards maturity: the recent institutional reform of the ESDP’ (2007) 5 *CFSP forum*, pp. 6-9.

<sup>47</sup> Interview with Council Secretariat official.

<sup>48</sup> Interviews with Council Secretariat and former-WEU officials.

<sup>49</sup> European Commission, *Who’s Who in the European Union: Inter-institutional Directory* (Office of Official Publications of the European Communities, Luxembourg, 2002); Council of Ministers (2007) op. cit., see note 28.

<sup>50</sup> Interviews with Council Secretariat, European Commission and Permanent Representations officials. For more information see Petrov and Dijkstra (2007) op. cit., see note 46.

discuss its role in the three phases of the ESDP policy cycle. During the agenda-setting phase, Solana and the Council Secretariat have on several occasions openly promoted ESDP operations, often in tandem with a number of Member States. Examples of such entrepreneurship are the Rafah Border Crossing Mission and the Aceh Monitoring Mission. In the former Solana stressed that if the EU wanted to be an equitable player in the Quartet, it had to contribute in order to be part of the solution. Solana furthermore argued in the Aceh operation that it was an excellent example of the EU as a 'force for good' and that would invigorate Europe's image as a global actor. Given the reluctance of many Member States towards the operation in Asia in the first place, the Council Secretariat can take some of the credit for its eventual success.<sup>51</sup>

The ESDP decision-making phase consists of the adoption of a number of documents, such as the Crisis Management Concept (CMC) and the Joint Action, by the PSC and the Council. These 'decision-making documents' are drafted by respectively the Directorate for Defence Issues and the Directorate for Civilian Crisis Management. Because these directorates have only limited expertise they often consult with the EUMS, which is located in the same Cortenbergh building. It is worth mentioning that these documents are often drafted in parallel with the 'implementation documents' under the responsibility of the EUMS (see below). The time frame is short and the political decision-makers want to know which resources they have to contribute (i.e. force composition) *before* making the political decision.<sup>52</sup>

Because these documents require significant military expertise and because the EU is a complex system, it is often difficult for the diplomats in the CIVCOM and the military attachés in the working groups to keep track of all developments. Especially the smaller Member States have to pick their battles and have to make sure that the diplomats in Brussels are constantly informed by the relevant ministries in the capitals. Sometimes the Member States are successful – for example in case of the Afghanistan mission many Member States watched the developments carefully – sometimes not.<sup>53</sup> This informational asymmetry is an important source of influence for the Council Secretariat.

When it comes to the implementation phase there is a difference between the military and civilian missions. In the former, the EUMS drafts the Strategic Military Options and helps the Operations Commander developing the Concept of Operations (CONOPS) and the Operational Plan (OPLAN). The Joint Action will stipulate whether the mission is carried out by the NATO under the 'Berlin Plus' agreement, by one of the five national Operational Headquarters (France, UK, Germany, Italy, Greece), or by the newly created small scale EU Operations Centre in Brussels. Although the last option has not yet been used, it has all different kinds of advantages over the other two options.<sup>54</sup> When the Operations Centre will be used, the EUMS is effectively in charge of the whole implementation process – though monitored by the Directorate for Defence Issues and the PSC – which will make it an influential player.

Civilian crisis management is different, because the European Commission is involved in financing the mission and because until recently there was no civilian

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<sup>51</sup> P.A. Braud and G. Grevi, 'The EU mission in Aceh: implementing peace' (2005) *Occasional ISS paper*.

<sup>52</sup> Interviews with Council Secretariat and the EUMS officials.

<sup>53</sup> Interviews with Permanent Representations officials.

<sup>54</sup> H. Dijkstra, 'Het tweede militaire hoofdkwartier in Brussel: Nieuwste duplicatie in relatie EU-NAVO' (2007) 61 *Internationale Spectator*, pp. 425-428; P. Petrov & H. Dijkstra (2007) op. cit., see note 46.

equivalent of the EUMS and the Operational Headquarters. Because the financing of military operations is a sensitive issue, the Member States decided to develop the ATHENA mechanism outside the Commission's range, in which an administrator of the Council Secretariat is in charge of the budget. In civilian crisis management the Commission, however, manages the various budgets. This implies that in the implementation phase, the officials from the Council Secretariat and the Commission are in constant contact to discuss the development of the mission. This has given the Commission an important say and has negatively impacted on the Council Secretariat's influence.<sup>55</sup>

All the implementation documents, which were drafted by the EUMS in case of military operations, were furthermore written by the Directorate for Civilian Crisis Management in the civilian missions. Until 2007 this Directorate also took care of all the procurement, logistics, and contracts with host countries, third countries and actors on the ground. Unintentionally the Directorate for Civilian Crisis Management thus transformed partially into an informal Operations Centre. Since 2007 these tasks have been taken over by the CPCC.

The officials of the Council Secretariat thus overall play an important and influential role when it comes to ESDP missions. Their role also differs from the CFSP proper. In addition to improving the coordination game between the Member States, the Council Secretariat in the context of ESDP also plays a major role in the implementation process. While the agent is continuously monitored by the principals in the PSC and the underlying working groups, the EUMS and the CPCC can more and more be characterized as expert bureaucracies, which have gained their autonomy through expertise. That having been said, it is questionable in how far the interests of the Secretariat actually deviate from the Member States. A large majority of the officials are still seconded by the Member States and the consensus requirement makes any kind of entrepreneurship difficult.

## **V Conclusion: towards integration**

This article has shown that the Council Secretariat received at once a political and military dimension at the Cologne European Council (1999). Christiansen and Vanhoonacker are therefore right to identify this summit as a 'critical juncture' in the Secretariat's development path.<sup>56</sup> Its foreign policy competences changed significantly over time due to the agreements reached at this summit and the number of officials in the foreign policy services sky-rocketed. As the two previous parallel sections have shown, the Council Secretariat is now indispensable for the conduct of both CFSP and ESDP.

In trying to explain the events at the Cologne European Council, it directly becomes obvious that the environment was right. The positions of France and the United Kingdom on European defence were as close as they get during the Kosovo crisis. The United States furthermore, despite Albright's 'three Ds', desperately wanted Europe to get its act together and to contribute to the new post-Cold War era. There was popular support for more integration and the current 'CFSP system' clearly did not work. One could thus maybe argue that the Member States slightly overreacted in the spur of the moment and that the Council Secretariat benefited.

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<sup>55</sup> Interviews with Council Secretariat and the European Commission officials.

<sup>56</sup> T. Christiansen and S. Vanhoonacker, 'At a Critical Juncture? Change and Continuity in the Institutional Development of the Council Secretariat' (2008) 31 *West European Politics*, forthcoming.

When taking a broader historical perspective, it is also fair to say that the Council Secretariat has benefited from the Member States' sovereignty concerns towards the European Commission. Time and again Commission proposals for a *rapprochement* between the Communities' and foreign policy activities – implying a larger role for the Commission itself – were ignored. Of course the Commission's role has incrementally increased and the former Commissioner Patten is right that the 'back office', as he calls it, 'often provide[s] most of the content' of European foreign policy.<sup>57</sup> Yet if one looks at the balance between the Commissioner for External Relations and the High Representative since 1999, one will quickly conclude that Commissioner Ferrero-Waldner lost out.

The political vacuum created by the increased expectations of CFSP during the Maastricht and Amsterdam Treaties has been filled, in absence of the European Commission, by the Council Secretariat. If it was not for this vacuum, the Council Secretariat's role would be more limited reflecting its formal powers. As pointed out earlier, the Council Secretariat is strong when the Commission is weak. The examples of this division of labour are numerous and the results are also predictable: the last decade has seen series of turf battles and consistency problems between the two. While this article is too short to elaborate on these inter-institutional relations, it is worth pointing to the future.

One of the most prominent features of the Reform Treaty is the creation of a new High Representative of the Union for Foreign Affairs and Security Policy, who will have a seat in the European Commission. In order to deal with the compartmentalization of the CFSP it is most likely that this will imply a partial merger between the CFSP services of the Commission and the Council Secretariat as part of a larger reform package concerning the European External Action Service. Looking at how Member States have kept the Commission at arms length for more than 35 years in foreign policy coordination, it seems, however, unlikely that all the Council Secretariat's foreign policy services will be transferred to the Commission and that full integration will be reached.

Despite the fact that the supranational services dealing with CFSP will be significantly strengthened under the Reform Treaty, this article has also shown the potential for autonomy remains limited. The EPC and Council Secretariat originated as a means to mitigate the transaction cost of cooperation for the Member States. Over time the coordination game has become ever more efficient. This was necessary given the various expectations of European foreign policy nowadays. The Council game in CFSP proper has changed, however, little compared to the early days despite the various institutionalizations. Consensus remains the rule and the formal powers of supranational institutions are in no way comparable to the 'Community-method' of the first pillar. There are no 'credible commitments' to guarantee. Because the Council Secretariat has developed as a facilitator in the CFSP rather than a monitor or a 'guardian of the Treaties', this will continue to have an impact on its influence even under the Reform Treaty with the 'almost foreign minister'.

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<sup>57</sup> C. Patten, *Not Quite the Diplomat: Home Truths about World Affairs* (Allen Lane, London, 2005), p. 156.