

'What kind of foreign policy?' from Le Monde diplomatique

Caption: In June 1992, the French monthly magazine Le Monde diplomatique speculates as to whether the Twelve will succeed in implementing a coherent common foreign policy in the European Communities.

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What kind of foreign policy?

It was the resistance of the British Government that put paid to the federalist project ⁽¹⁾ to which the majority of the Twelve were prepared to subscribe at Maastricht. And the chapter of the Treaty on European Union headed 'Provisions on a common foreign and security policy' bears the mark of the opposition between the federalists and those who wish to maintain a degree of national independence.

Nothing is more revealing in this respect than to juxtapose the first paragraph of Article J.1 and the first two paragraphs of Article J.8. The former states that 'the Union and its Member States shall define and implement a common foreign and security policy, governed by the provisions of the Title and covering all areas of foreign and security policy.' The latter stipulate that 'the European Council shall define the principles of and general guidelines for the common foreign and security policy ... [It] shall act unanimously, except for procedural questions ...' So 'all' areas concerning foreign policy and defence will be the exclusive domain of the Community, while at the same time, given the requirement of unanimity, the opposition of a single Member State will suffice for there not to be any common foreign policy at all.

The articles between J.1 and J.8 do, however, show that matters will be much more complicated in practice. According to the fourth paragraph of Article J.1, 'the Member States shall support the Union's external and security policy actively and unreservedly in a spirit of loyalty and mutual solidarity. They shall refrain from any action which is contrary to the interests of the Union or likely to impair its effectiveness as a cohesive force in international relations. The Council shall ensure that these principles are complied with.' We can already see the extent of the problems and discussions to which application of these provisions will give rise.

What can 'impair' the effectiveness of the Union 'as a cohesive force'? Does not the adoption of a particular stance by one of the Member States in itself undermine such cohesion? By announcing their military intervention in the Gulf War at a very early stage when a majority of Community countries were still opposed to it, did not France and Britain impair the future 'cohesive force' of the Community as a whole? By supporting Slovenian and Croatian secession and then announcing that it would recognise those states without waiting for its Community partners to do so, did not Germany undermine that 'cohesive force'?

In short, whenever a country wishes to adopt a position distinct from that of its Community partners, whenever it wishes to go faster or more slowly than they, it can be accused of infringing Article J.1.4.

It will, no doubt, be claimed that the very unanimity required to define the principles and guidelines of the common foreign and security policy will avoid this risk. In practice, however, because policy is *par excellence* the domain of the evolutionary, the changeable, and even the unexpected, Member States will obviously take care not to impose too rigid a framework on Community policy or restrict it by definitions that might prove uncomfortable; in order to avoid accusations of impairing the Community's 'effectiveness as a cohesive force', they will confine themselves to the vaguest, most abstract and most general phraseology.

This precaution will not, however, avoid suspicions, accusations and mutual surveillance. As stated in paragraph 5 of Article J.3: 'Whenever there is any plan to adopt a national position or take national action pursuant to a joint action, information shall be provided in time to allow, if necessary, for prior consultations within the Council.' This obligation does not apply only if the action in question is 'merely a national transposition of Council decisions'. Thus 'national action' may constitute a deviation from the common policy if it is not 'merely a transposition', and it must be screened for compliance with Community discipline before the least start can be made on it.

The crucial issue, of course, is the decision-making process; and that, as we have seen, is subject to the rule of unanimity. The federalists have nevertheless tried to circumvent this requirement: that is the purpose of the second paragraph of Article J.3, which lays down the procedure for adopting any joint action on which Council may decide. It reads as follows: 'The Council shall, when adopting the joint action and at any stage during its development, define those matters on which decisions are to be taken by a qualified majority.'

Procedural battles

So every time that a decision, however general and vague, has to be taken, there will be a battle over its adoption and application, and, on each occasion, there will also be a procedural battle over whether a qualified majority is sufficient.

This will be further aggravated by the cumbersome nature of decisions already taken at Community level, as we can see from paragraph 3 of Article J.3: 'If there is a change in circumstances having a substantial effect on a question subject to joint action, the Council shall review the principles and objectives of that action and take the necessary decisions. As long as the Council has not acted, the joint action shall stand.' This last point is of crucial importance. It means, for example, that a new government elected by universal suffrage that decides to pursue a different foreign policy will, in principle, be totally unable to do so.

Those who wish to maintain a degree of national independence might, in principle, assuage their fears about defence policy by reading the first paragraph of Article J.4: 'The common foreign and security policy shall include all questions related to the security of the Union, including the eventual framing of a common defence policy, which might in time lead to a common defence.' At first sight, that would appear to leave some leeway for the future, especially as paragraph 3 of the same article states that 'issues having defence implications dealt with under this Article shall not be subject to the procedures set out in Article J.3', i.e. those that provide for the use of a qualified majority for the application of joint decisions.

Compatibility with NATO

They would, nevertheless, be wrong to be so readily reassured. And those who sincerely wish that there should, one day, be a truly 'European' defence, i.e. one freely determined by the European states alone, have even more reason for concern. Paragraph 4 of Article J.4. begins with an assurance that 'the policy of the Union in accordance with this Article shall not prejudice the specific character of the security and defence policy of certain Member States' — meaning perhaps that France and Britain, for example, could both keep their nuclear deterrents — and adds that the policy of the Union 'shall respect the obligations of certain Member States under the North Atlantic Treaty'. But we see the full burden of the paragraph when it goes on to state that Union policy shall 'be compatible with the common security and defence policy established within that framework,' i.e. the framework of the North Atlantic Treaty Organisation (NATO).

There we have it in a nutshell. The Maastricht Treaty, while postponing elaboration of a common European defence, states that it will at all events have to be 'compatible' with what has been decided within NATO (2). If Article J.4 were ever to be implemented, the road to a genuinely European defence policy, as well as to any truly national defence, would be permanently blocked.

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(1) The draft submitted to the Twelve by the Dutch Presidency referred to a 'union with a federal vocation', whereas the final treaty speaks of an 'ever closer union among the peoples of Europe'.

(2) See Paul-Marie de La Gorce, 'Washington et la maîtrise du monde', *Le Monde Diplomatique*, April 1992.