2

The Evolution of the EU as an International Actor

The European Union has evolved considerably from its 1950s origins as a common market with six member states. The European Community of the 1950s and 1960s had some relations with third countries, namely former European colonies in Africa, and was beginning to assert a common stance in international trade negotiations. The European Union at the start of the twenty-first century had fifteen member states, was to expand to incorporate ten other states in 2004, and anticipated concluding accession negotiations with another two states in 2007 (see table 2.1). It is the world's largest unified market and trading bloc.[1] It conducts economic and political relations with virtually every country on earth, is a major player in international trade negotiations, and is currently engaged in the construction of a common security and defence policy.

The EU thus has considerable 'presence' in international affairs: other international actors cannot fail to notice its resources, and its internal policies (such as its agricultural or monetary policies) affect other international actors. Presence is a consequence of the EU's internal development, not necessarily of any explicit externally directed EU policy.[2] But the EU is not always able to translate presence into 'actorness', that is, the ability to function actively and deliberately in relations to other actors in the international system.[3]

The articulation of policy objectives is one requirement of actor capability, as noted in chapter 1, but the pursuit of those objectives is an even greater prerequisite. The EU member states and institutions must be able to agree on external actions, maintain those positions, and mobilize the resources necessary to pursue them.

Table 2.1   EU member states and candidate countries

EU member states (date of accession)
Austria (1995)
Belgium (1952)
Denmark (1973)
Finland (1995)
France (1952)
(West) Germany (1952)
Greece (1981)
Ireland (1973)
Italy (1952)
Luxembourg (1952)
Netherlands (1952)
Portugal (1986)
Spain (1986)
Sweden (1995)
United Kingdom (1973)

2004 enlargement (date accession talks started)
Cyprus (1998)
Czech Republic (1998)
Estonia (1998)
Hungary (1998)
Latvia (2000)
Lithuania (2000)
Malta (2000)
Poland (1998)
Slovakia (2000)
Slovenia (1998)

Candidate countries (date accession talks started)
Bulgaria (2000)
Romania (2000)

They are not always able to do so. But the member states have continually sought to improve the procedures that would allow agreement to be reached, and to increase the resources – the policy instruments – that could be wielded on behalf of a common policy. At the same time, however, the member states have sought to retain control over decision-making procedures, and have jealously guarded their own autonomy, especially in the spheres of foreign and security policy

and justice and home affairs. The tension between the drive to act collectively on the world stage and the desire to retain national autonomy has shaped the institutions and procedures developed in the external relations field, as well as the outcomes produced by them. This chapter describes those institutions and procedures; the next chapter analyses the EU's foreign policy instruments.

2.1   Origins of the three pillars

The European Union officially came into being on 1 November 1993, when the Maastricht Treaty entered into force. The Maastricht Treaty created a European Union composed of three pillars: the European Community, Common Foreign and Security Policy, and Justice and Home Affairs. The Community pillar contains amendments to the treaties of the three original European Communities, which were all established in the 1950s (see box 2.1). The second and third pillars have roots in frameworks for intergovernmental cooperation among the EC member states, established in the 1970s. The Maastricht Treaty on European Union has since been revised twice, with the 1999 Amsterdam Treaty and the 2003 Nice Treaty. The treaties are revised in intergovernmental conferences (IGCs), in which the member states vote unanimously. The next IGC convenes in 2003–4.[4]

The foundation of the European Communities was, above all, a unique resolution of the 'German problem', or the preponderance of German power.[5] Although postwar Germany was divided – its western part allied to the Western bloc and its eastern part allied to the Eastern bloc – West Germany was still viewed suspiciously. But instead of isolating and balancing West Germany, Western states – led most forcefully by the US – eventually agreed to integrate it into European and Atlantic cooperation frameworks.[6] The US views chimed with those of European federalists, who urged the creation of a 'United States of Europe' as a means to peace on the continent.

Of course, a bigger threat to postwar peace in Western Europe soon became obvious: the Soviet bloc. Without US help, Western Europe could not counter that threat. The 1948 Brussels Treaty alliance, between Belgium, France, Luxembourg, the Netherlands and the UK, could not possibly have resisted a Soviet invasion of Western Europe. Instead, with the North Atlantic Alliance, agreed in May 1949 by the US, Canada and ten West European countries (excluding West Germany), Western Europe's defence rested largely in US hands.

Box 2.1   The founding treaties and subsequent amendments

1952 European Coal and Steel Community (signed in Paris, April 1951): created a common market in coal and steel. The ECSC Treaty expired in 2002, but its functions had already been incorporated into the European Union.

1958 European Atomic Energy Community (signed in Rome, March 1957): created a common market in atomic energy.

1958 European Economic Community (signed in Rome, March 1957): created a common market, based on a customs union and common policies in selected areas.

Single European Act (signed in February 1986, in force July 1987): amended the EC treaties to allow for qualified majority voting to enact the single European market programme, and granted the EP some additional legislative powers. It included a section on European Political Cooperation.

Maastricht Treaty (signed in February 1992, in force November 1993): created a European Union composed of three pillars. The first pillar (the European Community) contained amendments to the EC treaties: it expanded the EP's powers and the use of QMV, extended the possibility for common policies in more areas (such as development policy) and created a single currency. The other two pillars institutionalized cooperation in foreign and security policy, and justice and home affairs.

Amsterdam Treaty (signed in October 1997, in force May 1999): amended the Maastricht Treaty to broaden the use of QMV and further increase the sectors in which the EC can agree policies.

Nice Treaty (signed in February 2001, in force February 2003): altered the voting weights assigned to each member state (and indicated the votes for each candidate state) from January 2005, and the number of MEPs to be elected from each state in the 2004 parliamentary elections.

US views of West Germany were not initially welcomed. But France, the state most reluctant to integrate West Germany into European cooperation frameworks, was eventually forced to formulate a plan to do so. In May 1950, French Foreign Minister Robert

Schuman announced a radical plan, the pooling of French and German coal and steel production under a supranational authority. Economic integration was the means, peace was the end, as Schuman stated:

> By pooling basic production [in coal and steel] and by instituting a new higher authority, whose decisions will bind France, Germany, and other member countries, this proposal will lead to the realisation of the first concrete foundation of a European federation indispensable to the preservation of peace.[7]

The Schuman Plan was formalized in the Paris Treaty establishing the European Coal and Steel Community (ECSC) in 1952. Six states were founding members: France, West Germany, Italy, Belgium, Luxembourg and the Netherlands. The UK and other West European states stayed aloof, unwilling to accept the limits on sovereignty that the ECSC would pose. A High Authority, composed of independent experts, was responsible for formulating a common market in coal and steel, and for supervising pricing, wages, investment and competition. Its decisions were binding on the member states.

There were still strains when, in 1950, the US insisted on rearming West Germany. The North Korean invasion of South Korea in June served as a warning: the Atlantic Alliance had to be prepared to counter a Soviet invasion of Western Europe. It must thus become an integrated military organization, including a rearmed West Germany. This was a very sensitive issue, particularly for the French, invaded by West Germany three times in the previous century. France's response to the US pressure was to propose a European Defence Community (EDC). This would create a European army; there would be no separate German army. In 1952, the six ECSC member states signed the EDC treaty. But it proved a disastrous attempt to force the pace of integration in defence: in August 1954, the French National Assembly refused to ratify the EDC treaty, and the rash attempt at 'big bang federalism' died.

The US still insisted on rearming and integrating Germany into NATO, and the British proposed the solution. In October 1954 the 1948 Brussels Treaty became the Western European Union (WEU), and Italy and West Germany joined it. British troops were stationed in West Germany, and West Germany formally renounced the production, storage and use of atomic, biological and chemical weapons. West Germany also joined NATO. The WEU, however, never fulfilled its role as a defence organization. Until the UK joined the European Community in 1973, it served as a forum for consultations between 'the Six' and the UK; it then hibernated until 1984 (see below).

The next steps in the West European integration process were gradual, limited to the economic field. European integration was 'relaunched' in 1955 at a conference in Messina, Italy, where the Six agreed to discuss further integration. Two years later, in Rome in March 1957, two treaties were signed, one creating a European Atomic Energy Community, and the other the European Economic Community (EEC). The most important is the EEC (the 'European Community' often meant the EEC only, and the other two communities are so limited in scope they will not be considered further in this book). It was to be a common market: goods, services, capital and labour would circulate freely between the member states, there would be a common external tariff, and common policies would be agreed in a host of economic areas including foreign trade and agriculture. Most significant was its supranationalism: after a transition period, common policies, proposed by an independent Commission, would be decided by the Council of Ministers from the member states by qualified majority voting (QMV). Member states could thus be outvoted.

The Rome Treaty provisions were not always fulfilled according to plan. Although the customs union (internal tariffs removed, external tariffs imposed) was set up rapidly, free trade in goods, services, capital and labour was blocked by non-tariff barriers until the single European market was completed in 1993 – and still some barriers remain. QMV was introduced considerably later than scheduled, as part of the single market initiative. But treaty revisions have progressively expanded the scope of economic integration, to include, most spectacularly, a single European currency. Today much economic and social policy-making occurs at the EU level, through a supranational process, although treaty revisions and many sensitive policy areas (such as taxation) remain subject to unanimous approval of the member states.

The growth of the European Community as an economic power has not been accompanied by as profound a development of its internal or external political dimension. However, the growing economic weight of the EC in the world had considerable political implications, which prompted the member states to set up intergovernmental frameworks for cooperation in the 1970s.

The EDC disaster cast a long shadow over the development of a political dimension: a supranational approach to foreign and defence policy was unacceptable to the member states. In the early 1960s, French President Charles de Gaulle attempted to relaunch discussion of political union, but the Fouchet Plans went nowhere: they would have subjected the supranational EC to the authority of an inter-

governmental body, anathema to European federalists, while the exclusion of non-member UK from foreign and defence policy cooperation did not make sense to the other member states.

In 1969, with new French political leadership, and an international context – superpower détente – more conducive to a European political voice, the member states reopened discussions on political union. At their summit in The Hague, the heads of state or government asked the foreign ministers to propose ways of achieving political union. They reported back in October 1970 and, in the Luxembourg Report, proposed cooperation on foreign policy issues, within a framework to be known as European Political Cooperation (EPC). Foreign policy cooperation would respond to France's desires for a stronger European voice in international affairs, and would provide an acceptable 'cover' for a more assertive West German policy towards its eastern neighbours (*Ostpolitik*), East Germany first among them.

EPC was to be a separate framework from the Community, based on intergovernmental principles (namely unanimous voting). This satisfied supranationalists, wary of any attempt to establish intergovernmental control over the EC, and intergovernmentalists, wary of encroachment by the Community on foreign policy. The Commission was associated only with EPC, the European Parliament played a marginal advisory role, and the European Court of Justice could not review EPC decisions. The Council presidency managed EPC and, often with the help of the past and future presidencies (thus composing the troika), presented EPC positions to third countries.

EPC's goals were modest: regular consultation, coordination of national positions and, where possible, common action. Decisions were taken in meetings of the foreign ministers, officially by unanimity. Over time, the foreign ministers agreed a series of improvements to EPC (see box 2.3, p. 39). After initially refusing to bridge the EC–EPC divide, the member states increasingly used the Community's economic resources to back up EPC decisions (as in the imposition of sanctions), although most often EPC's 'output' was limited to a declaration.

The dynamism of the single European market at the end of the 1980s and then the end of the Cold War created internal and external expectations that the Community would take on a greater international role. Discussions on deepening integration, launched in response to German unification in 1990, expanded to include reform of EPC, which was considered inadequate for the 'new world order'. In the Maastricht Treaty, the CFSP thus replaced EPC.

Also in the 1970s, the EC member states began to cooperate infor-
~~~~~~ :.. .~~ c.~1.a ~c :....~:~~ ~..a :..a~..~~1 ~cc~:.~ A~~:.. a~~.. a:a ~~ :..

an intergovernmental framework, separate from the Community. In 1975 they formed the Trevi Group, to try to coordinate responses to terrorism: by the mid-1970s, terrorist groups within Europe (such as the Red Brigades in Italy or the IRA in the UK) and from outside it (such as pro-Palestinian groups) were operating across Community borders. National officials from justice and interior ministries participated in Trevi. Over time, Trevi's deliberations extended beyond terrorism, and several working or ad hoc groups in other areas were set up: Working Group I dealt with anti-terrorism, exchanges of information, and the security of air traffic, nuclear installations and cross-border transport; Working Group II handled police tactics and equipment and, from 1985, issues of cross-border order, namely football hooliganism; and Working Group III dealt with serious international crime, including drug-trafficking, bank robbery and arms-trafficking. Ad hoc groups on organized crime and on immigration were also created. In 1990, Trevi ministers agreed to establish a European Drugs Intelligence Unit (predating the later creation of the European Police Office, Europol). Much of Trevi's activity involved exchanging information, exchanging experts and officials, and comparing member state practices.[8] Sensitivities about national sovereignty prevented the member states from reaching substantial, binding agreements.

The combined effects of the completion of the single European market, the collapse of communism in Central and Eastern Europe, and the wars in the former Yugoslavia, however, intensified the need for cooperation. Germany, now on a much more open frontier between West and East, pushed strongly for collective action.[9] Larger movements of people across internal EC borders, and from outside, plus an apparent increase in transnational crime as a result (certainly as perceived by European publics), created exactly the sort of demand for cooperation that interdependence theorists recognize. Trevi, more of a network than a policy-making framework, was then institutionalized as the JHA pillar.

Thus all three EU pillars build on a legacy of cooperation dating back to at least the early 1970s. The next three sections introduce the institutions and decision-making processes of each of them.

2.2   The European Community pillar

The European Community's main decision-making bodies are the Council of Ministers, the European Commission and the directly elected European Parliament (EP). The European Council, composed of the heads of state or government, does not have a formal

decision-making role in the EC pillar but has increasingly become the main arena in which decisions are ultimately endorsed or even settled. The European Court of Justice (ECJ) interprets Community law.[10]

The Commission is currently headed by twenty Commissioners: France, Germany, Italy, Spain and the UK nominate two Commissioners each, the other member states only one each.[11] Commissioners are supposed to act in the 'European interest' and are not to accept instructions from their home country. They serve for five years. Approximately 22,000 people work for the Commission (another 10,000 people work on a temporary basis), fewer than are typically employed in the administration of any large city.

The Council's composition changes according to the topic at hand (agriculture, finance, and so on).[12] Until 2002 the 'senior' Council was the General Affairs Council (GAC), comprising the foreign affairs ministers. Meeting at least monthly, it was supposed to coordinate the other Councils as well as deal with the EU's foreign relations, but it became overloaded almost to the point of paralysis.[13] The June 2002 Seville European Council created a 'General Affairs and External Relations Council', comprising two formations: one responsible for horizontal coordination; the other dealing with the whole of the EU's foreign relations, including the CFSP, defence policy, trade, and development aid policy. A member state can send its foreign minister to both formations, or the minister of its choice (say, the European affairs minister) to one and the foreign minister to the other.[14] This reform should in principle allow the foreign ministers more time to focus on the EU's foreign relations.

Every six months, a different member state assumes the Council presidency. The presidency organizes and manages the Council's business across all three pillars, and is a position from which member states can push specific priorities. Many member states, especially the smaller ones, take this opportunity very seriously, and insist on the equal right of all member states to hold the presidency.[15] There have, however, been calls to abolish or radically reform the rotating presidency, as enlargement will increase the number of small member states less able to handle the demands of the presidency, and lengthen the amount of time between any member state's presidencies. What might replace the current system is still being debated.

The Community's legislative procedure can be summed up briefly, if now somewhat inaccurately, in the old adage 'the Commission proposes, the Council disposes'. The Commission initiates proposals, which are then voted on by the Council. But the Commission's sole right of initiative has been eroded: both the Council and the EP can

now request that the Commission propose legislation, while the European Council has increasingly directed the Commission to initiate legislation.

The power to take decisions resides with the Council although, in a growing number of areas, the EP can block decisions. The Council takes decisions increasingly on the basis of QMV (see table 2.2), but member states are rarely outvoted on issues that they consider to be of great national interest, and a consensus is usually sought.

A Committee of Permanent Representatives (Coreper) prepares the Council's discussions, with input from Council working groups.[16] A considerable proportion of decisions are actually taken by Coreper, although it is not directly accountable to the electorate, thus

Table 2.2   The Council of Ministers: voting weights for qualified majority voting

Until 2005, the votes of the EU-15 are:
10 votes: Germany, France, Italy, UK
8 votes: Spain
5 votes: Belgium, Greece, Netherlands, Portugal
4 votes: Austria, Sweden
3 votes: Denmark, Finland, Ireland
2 votes: Luxembourg

A proposal must receive 62 votes out of the total of 87 votes for approval under QMV.

The Nice Treaty reallocated voting weights, more proportionately to the population size of the member state, and indicated how many votes the candidate countries would have once they joined:

29 votes: Germany, France, Italy, UK
27 votes: Spain, Poland
14 votes: Romania
13 votes: Netherlands
12 votes: Belgium, Greece, Portugal, Czech Republic, Hungary
10 votes: Austria, Sweden, Bulgaria
7 votes: Denmark, Finland, Ireland, Lithuania, Slovakia
4 votes: Luxembourg, Cyprus, Estonia, Latvia, Slovenia
3 votes: Malta

In the fully enlarged Union, a proposal would have to receive 258 votes out of the total of 345, but a qualified majority must usually comprise a majority of member states and represent at least 62 per cent of the EU's population.

contributing to the 'democratic deficit' (see section 6.1). Coreper is also an arena of socialization, as the officials and ambassadors work closely together on a daily basis.

The European Parliament's powers have steadily increased. Since the Rome Treaty, which gave it very little say in the legislative process, the EP has acquired powers to amend, block or reject proposed legislation, through what are called cooperation and co-decision procedures.

The Community's policies are funded by the EC budget. The budget is unusual compared to that of other international organizations, because it is based on Community revenue sources: customs duties, agricultural levies, a proportion of value-added tax levied in the member states, and national contributions (weighted by relative GNP). The Commission proposes the budget and the Council approves it, but the EP can amend budgetary expenditure classified as 'non-compulsory', and must also approve the entire budget. The budget is actually rather small. The 2000 budget was only 1.09 per cent of Community GDP and 2.4 per cent of member states' public expenditure. There is no support for increasing the size of the budget, even in the light of enlargement to the poorer Central and East European states. Most of the EC's budget is devoted to the Common Agricultural Policy, which supports farming (45 per cent in 2002), and structural and cohesion funds, which go to poor regions (34.6 per cent).[17]

With respect to the Community's external relations, the Rome Treaty contained only three important provisions:

1   the Common Commercial Policy (CCP);
2   the power to conclude association agreements with third countries and groups of states; and
3   the possibility of cooperating with the United Nations, the Council of Europe, and the Organization of Economic Cooperation and Development.

The Common Commercial Policy is the most important basis for the Community's external activities. Because it is a customs union, there are common rules for imports into the Community, and only the Community can negotiate changes to them (under article 133). Only the Community can offer trade agreements to third countries, in addition to association agreements (see chapter 3). The CCP also enables the Community to play a major role in international trade negotiations; the EC is a full member of the World Trade Organiza-

tion (WTO, the 1995 successor to the General Agreement on Tariffs and Trade or GATT).

But the CCP is limited. Exports of weapons and military equipment are excluded, although the Community can agree rules on exporting dual-use goods (civilian goods and technology that can be used for military purposes). Furthermore, when the EEC Treaty was negotiated, international trade was primarily trade in goods. By the time GATT members were negotiating the Uruguay Round (1986–94), the agenda had expanded to include trade in services, intellectual property and investment. But the member states did not want these matters to fall under Community jurisdiction, which means that the Commission negotiates on their behalf.[18] In the Amsterdam Treaty, however, they agreed that the Council could decide unanimously that the Community can conclude agreements on services and intellectual property. Under the Nice Treaty, such a decision can be taken by QMV, with some exceptions (cultural and educational services).[19] Controversy over representation still arises with respect to new issues, such as trade and the environment, and trade and labour standards.

However, the extent of the Community's contractual relations with third countries is still wide-ranging. As the Community's remit grows (to encompass research and development, environmental protection, and so on), so too can the content of its international agreements, which include provisions for cooperation on such matters with third countries. Agreements also increasingly include matters which do not fall under the Community pillar, such as foreign policy cooperation, though negotiating such 'mixed' agreements is a messy business (see chapter 3).

The other major area of the Community's external relations is the provision of financial aid to third countries (see chapter 3). The Rome Treaty made no explicit provision for granting assistance to third countries, but very early on the Community began granting aid to developing countries, mostly former European colonies in Africa. The Maastricht Treaty chapter on development cooperation provided a firm legal basis for aid to developing countries; there is a different legal basis for assistance to countries in transition (such as the Central and East European countries). The money comes from two sources: the EC budget, and a separate fund for African, Caribbean and Pacific (ACP) countries, the European Development Fund. This mixture of legal bases and budgetary sources reflects the incremental development of the EU's relations with countries in need of aid, and the lack of an overall strategy towards them

(see chapter 4). The Commission manages the Community's aid programmes. The member states also have their own aid programmes, and the Community and member states are supposed to ensure their complementarity, but this remains an objective rather than a concrete fact.

The key decision-making institutions in external relations are the Council and the Commission. Trade and cooperation issues were usually decided by the GAC; a Development Council, made up of development ministers, also met twice a year to deal with relations with the ACP and other developing countries. The Development Council is now merged into the General Affairs and External Relations Council (dismaying many development NGOs). The working groups that help to prepare the Council's discussions on external relations are for the most part joint EC–CFSP working groups, such as those on Asia, Central and Eastern Europe, Latin America, Middle East/Gulf, and South-East Europe. The Council also keeps a steady eye on the Commission as it negotiates external agreements and manages aid programmes, via special committees of national representatives which oversee the Commission. The EP has a say in approving some types of international agreements, and in approving the aid budget.

The Commission is the most prominent 'face' that the Community presents to third countries. Its internal organization has undergone several transformations since the early 1990s. The number of directorate-generals (DGs) dealing explicitly with external relations has expanded from two (one for external economic relations, and the other for relations with the ACP countries) to four (see box 2.2). The External Relations DG handles relations with a wide variety of countries, giving its Commissioner (currently Chris Patten) an especially high profile. Given the creation of the General Affairs and External Relations Council, the rationale for maintaining separate external relations and development DGs weakens further, particularly as non-ACP developing countries already fall under the remit of the External Relations DG.

Almost every country on earth has a diplomatic representation to the Community, and the Commission itself has delegations in 123 countries and to five international organizations. The Commission's delegations vary in size; some, such as the delegation in Washington, DC, are quite large. They manage and negotiate trade, agricultural and even political relations with the third country; and they manage the Community's economic and development cooperation programmes. They serve as a fount of information for the Commission in Brussels.

Box 2.2   The European Commission, 1999–2004

There are thirty-six directorate-generals (DGs), responsibility for which falls to various commissioners. Those most related to external relations are:

- **External Relations – Commissioner Chris Patten:** relations with all countries except those covered by Development and Enlargement directorate-generals; relations with international organizations; Commission's participation in the CFSP; administration of delegations in third countries
- **Trade – Pascal Lamy:** international trade policy, including WTO
- **Development – Poul Nielson:** relations with the African, Caribbean and Pacific associated states, South Africa, and overseas countries and territories; food aid, food security, and cooperation with NGOs in all developing countries
- **Enlargement – Gunter Verheugen:** relations with the thirteen applicant countries: Bulgaria, Cyprus, Czech Republic, Estonia, Hungary, Latvia, Lithuania, Malta, Poland, Romania, Slovakia, Slovenia, Turkey

There are also two related offices:

- **Humanitarian Aid Office (ECHO) – Poul Nielson:** emergency and humanitarian aid
- **EuropeAid Cooperation Office – Chris Patten (Chairman of the Board), Poul Nielson (Chief Executive):** management and evaluation of all EC aid to third countries

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2.3 The CFSP pillar

The process of foreign and security cooperation over the last thirty-odd years has gradually been 'legalized', in that the rules have been clarified, codified and increasingly invested with the status of law (see box 2.3).[20] This is particularly evident in the treaty reforms of the 1990s. In addition, first pillar institutions have come to play a greater role in CFSP than they did in EPC.

The CFSP's institutional structure, as set up under the Maastricht Treaty, is similar to that of EPC. The European Council sets the broad

guidelines; the Council of Foreign Ministers (the GAC by another name) takes decisions to implement them. The Council's work with respect to CFSP items is prepared by the Political Committee (composed of the political affairs directors of the national foreign ministries), and Coreper passes the Political Committee's positions on to the Council. The Political Committee relies on the work of European Correspondents (foreign ministry officials) and CFSP working groups. Some working groups are joint EC–CFSP working groups, others are CFSP only (as on human rights or disarmament). The European Commission is fully associated. The Parliament is informed of CFSP issues, and can make recommendations, but its views do not have to be incorporated into CFSP decisions. The CFSP does not fall under ECJ jurisdiction.

The CFSP's decision-making provisions were intended to improve on those of EPC. Firstly, the Commission could propose actions, alongside the member states. This would help to ensure consistency of action by the Community and CFSP pillars. But the vast majority of proposals are still initiated by the member states, illustrating the extent to which the Commission is *not* a driving force in the CFSP, in contrast to the role it can play in the first pillar.[21] Secondly, two new procedures were added: the Council can agree a 'common position' or a 'joint action'. The difference between them was not specified, though the implication was that a joint action signalled that the EU was actually doing something (spending money, for example). Member states must ensure that their national positions conform to both types of decision. Thirdly, QMV was slipped into decision-making: the Council could decide, by unanimity, that further decisions on a joint action would be taken by QMV. QMV has never actually been used, however – a sign that the member states will not easily relinquish unanimous voting over foreign policy issues.

With the intention of a proactive international role for the EU, money became an issue. EPC had no budget; if EPC decisions had financial implications, the member states split the costs. The Maastricht Treaty provided for CFSP activities to be funded through the Community budget – an opening for the EP to use its budgetary powers to exercise influence over the CFSP. Who pays for CFSP actions was a matter of dispute between the member states, and between the Council and Parliament, until a July 1997 agreement on financing CFSP was reached. The CFSP's budget, however, is still tiny compared to the Community's aid budget (see table 3.2, p. 58).

Under the Maastricht Treaty, the CFSP was represented externally through the presidency and the troika, just as EPC had been. There was thus still no single 'EU phone number' for third countries to call

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Box 2.3   Chronology: the evolution of a common EU foreign, security and defence policy

- March 1948: Belgium, France, Luxembourg, the Netherlands and the UK sign the **Brussels Treaty** of mutual defence.
- April 1949: The US, Canada and ten West European countries sign the **North Atlantic Treaty**.
- May 1952: The **European Defence Community** treaty is agreed by the six ECSC member states. It would have created a common European army and permitted West Germany's rearmament. In August 1954, the French National Assembly rejects the treaty.
- October 1954: The **Western European Union (WEU)** is created on the basis of the Brussels Treaty and expanded to include Italy and West Germany. West Germany joins NATO.
- December 1969: At their **summit in The Hague**, the EC heads of state or government ask the foreign ministers to study ways to achieve progress in political unification.
- October 1970: The foreign ministers approve the **Luxembourg Report**, setting up European Political Cooperation. They will meet every six months, to coordinate their positions on international problems and agree common actions. They will be aided by a committee of the directors of political affairs (the **Political Committee**).
- July 1973: The foreign ministers agree to improve EPC procedures in the **Copenhagen Report**. They will meet at least four times a year; the Political Committee can meet as often as necessary. **European Correspondents** and **working groups** will help prepare the Political Committee's work. The Commission can contribute its views to proceedings.
- October 1981: Measures approved in the **London Report** include the crisis consultation mechanism: any three foreign ministers can convene an emergency EPC meeting within forty-eight hours. In meetings with third-country representatives, the presidency can be accompanied by the preceding and succeeding presidencies (the **troika**). The Commission is 'fully associated with EPC'.
- October 1984: The **WEU is reactivated**, as WEU foreign and defence ministers agree to meet regularly.
- February 1986: The **Single European Act** (SEA) is signed, and contains Title III on EPC. EPC can discuss the 'politi-

cal and economic aspects of security'. EPC and the EC's external relations must be consistent. A small EPC secretariat, based in Brussels, will help the presidency.

- February 1992: The **Maastricht Treaty** is signed, replacing EPC with the Common Foreign and Security Policy. The Council of foreign ministers will decide **common positions** and **joint actions**, and QMV can be used to implement the latter. The Commission can initiate proposals. CFSP activities can be financed by the EC budget. The EU can request the WEU to implement decisions that have defence implications.
- June 1992: The **Petersberg Declaration** states that the WEU will engage in humanitarian and rescue tasks, peace-keeping, and crisis management tasks, including peace-making ('**Petersberg tasks**'). Three forms of WEU membership (full, associate and observer) are created.
- January 1994: NATO summit agrees that NATO assets can be used by the WEU and endorses the concept of '**Combined Joint Task Forces**' (the details are approved in June 1996); US approval is needed for the use of its assets.
- October 1997: The **Amsterdam Treaty** is signed, and contains several reforms of the CFSP pillar. QMV is to be used to implement the European Council's **common strategies**, and member states can abstain from decisions. A **High Representative for the CFSP** is created, and replaces the past presidency in the troika. The High Representative also heads a new **Policy Planning and Early Warning Unit**. The EU can launch the **Petersberg tasks**, which are to be implemented by the WEU.
- December 1998: Franco-British declaration on EU military capability at **St Malo**.
- June 1999: The **Cologne European Council** agrees that the EU should be able to undertake the Petersberg tasks, replacing the WEU.
- December 1999: The **Helsinki European Council** sets the **headline goal** for the Common European Security and Defence Policy. By 2003, the EU will be able to deploy within sixty days, and sustain for at least one year, military forces of up to 50,000–60,000 persons capable of the full range of Petersberg tasks. It establishes interim committees to run it: the Political and Security Committee, the EU Military Committee and the EU Military Staff. In December 2000, the Nice European Council formalizes the new committees.

to ask what the EU's position was on international issues. The composition of the troika changes every six months with new presidencies, so the CFSP suffered from a lack of continuity in its external relations.

The CFSP differs substantially from its predecessor in one respect: it covers defence. EPC had not discussed defence issues at all; NATO was the organization responsible for defence. In the early 1980s some member states, concerned with the Reagan administration's bellicosity towards the Soviet bloc, sought to cooperate in security and defence. This had to take place outside EPC, because Denmark, Greece and neutral Ireland opposed discussing defence within EPC, largely on principled grounds. So in 1984 the other member states revived the WEU, as a forum in which they could discuss defence issues without a US presence. At the time the WEU conveniently did not include Denmark, Greece or Ireland.

The end of the Cold War spurred the development of an EU defence dimension. The US was withdrawing its troops from Europe, and the Europeans were expected to contribute to international peace-keeping missions: CFSP would thus need a military dimension. But the member states were (and still are) divided over issues such as the relationship of a European defence structure to NATO (several do not wish to jeopardize NATO's pre-eminent role in European security) and to the EU (several member states oppose any moves to turn the EU into an alliance). But they could agree to discuss defence, and that the WEU should be the EU's defence arm. Under the Maastricht Treaty, the Union can request the WEU 'to elaborate and implement decisions and actions of the Union which have defence implications'.

This was still controversial. The neutrals (Ireland was joined by Austria, Finland and Sweden in 1995) could take some comfort in the treaty's pledge that the Union's policy 'shall not prejudice the specific character of the security and defence policy of certain Member States'. But it was all a step too far for Danish public opinion: after the Danes rejected (initially) the Maastricht Treaty in a referendum in June 1992, Denmark was granted an opt-out from the defence (and other) provisions.

There were two further problems with using the WEU as the EU's defence arm. Firstly, when the Maastricht Treaty entered into force, the WEU was not capable of implementing decisions with defence implications. So the WEU Council of Ministers first limited the WEU's potential activity. In June 1992, in the Petersberg Declaration, they declared that the WEU would engage in humanitarian and rescue, peace-keeping and crisis management tasks (the Petersberg

tasks), not common defence. The WEU member states pledged forces that would be made available for carrying out the Petersberg tasks. But the WEU still did not have operational resources for undertaking the Petersberg tasks. So, in June 1996, NATO approved the concept of Combined Joint Task Forces (CJTFs). The WEU could lead a CJTF, using NATO facilities and resources. But this arrangement was far too unwieldy to be of much use, and EU/WEU action still depended on member state agreement. When faced with a breakdown of order in Albania in early 1997, the member states could not agree to send a WEU force. Instead, Italy assembled a 'coalition of the willing', acting under a UN mandate, to restore calm in the country.

The second problem was the differing memberships in the EU, WEU and NATO. In an attempt to simplify matters, the WEU created several types of membership (see table 2.3). Observers, associates and associate partners could attend some WEU Council meetings, and participate in WEU missions. This made for a very large 'WEU family' (twenty-eight states), again not the simplest of solutions.

The CFSP's record after the Maastricht Treaty entered into force was mixed, although numerous joint actions and common positions were approved. Election observers were sent to places such as Russia and South Africa, to try to ensure a smooth democratic transition; and special envoys were sent to contribute to peace processes in the Middle East and the Great Lakes region of Africa. Several CFSP decisions relied on Community instruments, as in the promise of a cooperation agreement with South Africa to support its transition to multiracial democracy.

But there was still a feeling that the EU was not matching its economic weight with political clout. Despite a continuous output of CFSP decisions, the EU was ineffective in the Bosnian war and, early on, was sidelined from international efforts to resolve the crisis. Its record in the other major crises of the mid-1990s was even less admirable: not only did it, like the rest of the international community, stand by and watch the genocide in Rwanda, but it struggled to find a common stance on the Rwandan refugees massing in Zaire.[22] NATO was the organization responsible for European defence and out-of-area operations, in Bosnia above all.

This disappointment contributed to a more substantial revision of the CFSP provisions in the Amsterdam Treaty. Unanimous voting was to become less the rule and more the exception, a necessity if CFSP was to function as the EU enlarged. The Amsterdam Treaty provided for constructive abstention and the use of QMV when a

Table 2.3   WEU membership (at the end of 2000)

Full members

Belgium
France
Germany
Italy
Luxembourg
Netherlands
UK
Spain (from 1990)
Portugal (1990)
Greece (1995)

Associate members (category created in 1992, for non-EU European members of NATO)

Iceland
Norway
Turkey
Czech Republic (from 1999)
Hungary (1999)
Poland (1999)

Observers (category created in 1992, for non-NATO EU members and Denmark)

Denmark
Ireland
Austria (from 1995)
Finland (1995)
Sweden (1995)

Associate partners (category created in 1994)

[Czech Republic (until 1999)]
[Hungary (until 1999)]
[Poland (until 1999)]
Bulgaria
Estonia
Latvia
Lithuania
Romania
Slovakia
Slovenia (1996)

'common strategy' is adopted (see box 2.4). The Nice Treaty also extended QMV to decisions on appointing special representatives.

In response to concerns that the EU was too reactive in the face of international crises, the member states set up a Policy Planning and Early Warning Unit within the Council secretariat. The Policy Unit,

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Box 2.4   CFSP decision-making procedures

The European Council agrees **common strategies**, by unanimity, in areas where the member states have interests in common. A common strategy sets out the EU's objectives, duration and means to be made available to carry it out.

The Council of Foreign Ministers (now the General Affairs and External Relations Council) implements common strategies by agreeing **joint actions** and **common positions**; in so doing, it votes by QMV.

The Council may also approve joint actions and common positions separately, not as measures implementing a common strategy. In this case, the Council votes by unanimity, although it may decide unanimously to implement a joint action by QMV.

Joint actions address specific situations where operational action by the EU is considered to be required. **Common positions** define the EU's approach to a particular matter of geographical or thematic nature.

A member state can oppose the use of qualified majority voting for reasons of important national interests (the **national interest brake**), and qualified majority voting does not apply to decisions having military implications.

One or more member states can abstain from voting on a decision, without blocking it (the **constructive abstention** clause). But they must accept that the decision commits the Union and agree not to take action likely to conflict with it. If the member states abstaining from a decision represent more than one-third of the weighted votes, then the decision cannot be adopted.

The Commission shares the right of initiative with the member states, but does not have a vote.

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staffed by Commission, WEU and national officials, monitors developments in areas relevant to the CFSP, identifies areas where the CFSP could focus, provides early warning of crises, and produces policy option papers. It depends, though, on member state willingness to share information with it, and it is small, composed of only twenty-four officials.

The Amsterdam Treaty also created the post of the High Representative for the CFSP to help formulate, prepare and implement policy decisions, and head the Policy Unit. The High Representative participates in a new troika, with the current and incoming presidencies, in association with the Commission. The intention was to give the CFSP more continuity in its international representation, providing a 'single phone number' for third countries' representatives to call. But the High Representative is still only one part of the system, and really only adds a phone number to the mix. Javier Solana, a former Spanish foreign minister and NATO Secretary-General, was appointed High Representative and took up the post in October 1999.

As for defence, the Amsterdam Treaty did not reform substantially the Maastricht provisions. The neutral states and the UK opposed merging the EU and WEU; instead the Petersberg tasks were included in the treaty. To carry them out, the EU would have to avail itself of the WEU; in that case, all EU member states could participate fully, even if they are only WEU observers.

Since the Amsterdam Treaty entered into force, the CFSP's output has continued to grow. The European Council agreed three common strategies, on Russia (June 1999), Ukraine (December 1999) and the Mediterranean (June 2000). There is frustration with the common strategies: they tend to be rather bland statements of broad objectives, merely restating what the EU is already doing.[23] In early 2000, Solana suggested several ways to improve common strategies: they must add value to what the EU is already doing, and should clearly set priorities. The Council largely agreed, though whether common strategies are more useful in future remains to be seen.

The record of the High Representative and the Policy Unit is more admired, even though both suffer from a lack of financial resources and personnel. Solana has generally been perceived to be a success, contributing to the Middle East peace process and a peaceful solution to conflict in the Former Yugoslav Republic of Macedonia, and he has certainly provided a 'face' for EU foreign policy.

The most important development since the Amsterdam Treaty is in the security and defence dimension. In late 1998, the new Labour

government changed the UK's stance on this. In December, Prime Minister Tony Blair signalled the change in the St Malo initiative with France, the other major military power in Western Europe. They declared that the EU must be willing and able to respond to international crises by undertaking autonomous action, backed up by credible military forces. There are clearly differences in the British and French visions: for Britain, the EU can act when NATO does not wish to do so; for France, NATO does not have such a primary role. But, for the time being, the two countries can at least agree to develop the EU's military capacities.[24]

Surprisingly, even the neutral EU member states were willing to develop the initiative, reflecting widespread dissatisfaction with the fact that NATO was still the primary actor in the 1999 Kosovo crisis. The June 1999 Cologne European Council repeated the language of the St Malo declaration, and in December 1999 the Helsinki European Council set the famous headline goal: by 2003 the EU must be able to deploy within sixty days, and sustain for at least one year, military forces of up to 50,000–60,000 persons capable of the full range of Petersberg tasks. In November 2000 the member states made specific commitments of personnel to attain the headline goal; in November 2001 they did the same with respect to equipment and other resources. There are still numerous gaps in resources, however.

To provide political guidance and strategic direction to such operations, new bodies have been set up within the Council framework: a Political and Security Committee (PSC); a Military Committee; and a Military Staff. The PSC consists of ambassadors from the member states, who reside permanently in Brussels, and meets at least twice a week. It helps to formulate and implement common EU external policies, coordinates CFSP working groups, and gives political direction to the development of EU military capabilities. The PSC effectively replaces the Political Committee, which met less often.[25] It is building strong relations with other institutions in Brussels, the Commission, Coreper, High Representative and Policy Unit. This is contributing to the 'Brusselization' of EU foreign policy: foreign policy issues are more and more discussed, and decided, in Brussels.[26] Brusselization is 'diminishing the roles of the Member States and of intergovernmentalism', and represents a new form of governance of the CFSP.[27]

The Military Committee consists of the member states' chiefs of defence or their military representatives. It provides military advice to the PSC. The Military Staff, consisting of 135 people, provides early warning and strategic planning for the Petersberg tasks, and is helping

to identify gaps in the EU's military capabilities. A Council of defence ministers has not been created; the General Affairs and External Relations Council covers defence policy.

The WEU has disappeared as an organization, and the EU–WEU–NATO triangle is now a bilateral EU–NATO relationship. This raises three problems. Firstly, the WEU was an alliance, based on a mutual defence guarantee. The future of this guarantee is unclear, as the neutral EU member states are not keen to turn the EU into an alliance. Secondly, the EU's relationship with non-EU European NATO member states, particularly Turkey, remains contentious. Thirdly, 'Atlanticist' member states, and the US, are concerned that the EU will duplicate NATO's resources and thus compete with it. However, for the foreseeable future the EU will still need access to NATO resources to be able to carry out the Petersberg tasks.

2.4   The JHA pillar

The Maastricht Treaty codified and formalized Trevi's network of cooperation and included a large number of topics within the remit of the third pillar (see box 2.5). It soon became a very busy pillar, with numerous meetings at all levels – resulting in what den Boer and Wallace term an 'intense transgovernmental network'.[28]

The JHA pillar's institutional structure is similar to that of CFSP, although the EC institutions have more of an input. The Council of Justice and Interior Ministers takes the decisions. Coreper prepares Council meetings, but the JHA items are coordinated by a Coordinating Committee of senior officials from the member states. The Commission participates in JHA meetings at all levels, and shares the right of initiative in most areas. The European Parliament is regularly informed of JHA discussions and, more importantly, is to be consulted on JHA measures. The ECJ can be asked to interpret the provisions of conventions, provided that the member states have accepted ECJ jurisdiction. The provisions for financing JHA activities are the same as in the CFSP pillar.

JHA decisions could take several forms: joint positions, joint actions and conventions. Joint positions define the Union's position on a given issue; joint actions (copied from the CFSP pillar) imply collective action is being taken; and conventions are an international legal instrument. Voting is by unanimity, though (as in CFSP) the Council could decide unanimously to adopt measures implementing a joint action by QMV. Conventions enter into force only for those member states that adopt them.

Box 2.5   Areas for cooperation in the Justice and Home Affairs pillar

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Maastricht Treaty (article K.1):

1   asylum policy;
2   rules governing the crossing by persons of the external borders of the member states;
3   immigration policy and policy regarding nationals of third countries:
      (a)   conditions of entry and movement by nationals of third countries on the territory of member states;
      (b)   conditions of residence by nationals of third countries on the territory of member states, including family reunion and access to employment;
      (c)   combating unauthorized immigration, residence and work by nationals of third countries on the territory of member states;
4   combating drug addiction in so far as this is not covered by (7) to (9);
5   combating fraud on an international scale in so far as this is not covered by (7) to (9);
6   judicial cooperation in civil matters;
7   customs cooperation;
8   judicial cooperation in criminal matters; and
9   police cooperation for the purposes of preventing and combating terrorism, unlawful drug-trafficking and other serious forms of international crime, including if necessary certain aspects of customs cooperation, in connection with the organization of a Union-wide system for exchanging information within a European Police Office (Europol).

Following Maastricht, progress in reaching and implementing binding agreements remained slow. For example, three years of negotiations were needed to conclude an agreement to create Europol, which then took an additional two years to ratify. The Europol convention entered into force in October 1998, and Europol became operational only in July 1999.[29] The JHA pillar mostly produced nonbinding recommendations and conclusions. Cooperation on legal and judicial matters, after all, requires states to reach agreements – and

compromises – on highly sensitive matters. The logic of diversity works not just in foreign and defence policy, and can even be stronger when it comes to national legal systems.

The Amsterdam Treaty created a new goal for the integration process: to provide EU citizens 'with a high level of safety within an area of freedom, security and justice ... by preventing and combating crime, organised or otherwise, in particular terrorism, trafficking in persons and offences against children, illicit drug trafficking and illicit arms trafficking, corruption and fraud' (article 29). To that end, there is to be closer cooperation between police forces, customs authorities and other competent authorities; closer cooperation between judicial and other competent authorities of the member states; and approximation of rules on criminal matters in the member states.

The 'AFSJ' (area of freedom, security and justice) responds to public concerns about security, thus bringing the EU 'closer to the citizens' – a prominent goal of the 1996–7 IGC, and reflecting the Maastricht Treaty ratification difficulties. Somewhat surprisingly, given the lack of debate on the third pillar before the IGC, the Amsterdam Treaty revised substantially the JHA pillar. Items 1 to 7 in box 2.5 were moved into the first pillar. For five years after the entry into force of the Amsterdam Treaty (1 May 1999) a transitional decision-making procedure on these issues is to be used: the Council will vote by unanimity on a Commission or member state proposal, after consulting the EP. After the transition period, the Council could decide unanimously to introduce QMV and the co-decision procedure with the EP. This would give the Commission a much larger role in JHA issues; partly in anticipation of this, the Commission created a new JHA directorate-general in September 1999. But flexibility had to be introduced: Denmark, Ireland and the UK have an opt-out from the new first pillar provisions on asylum, immigration, external border controls and judicial cooperation in civil matters, though they can decide to adopt any measure proposed under them.

The slimmed-down third pillar operates much as it did under the Maastricht Treaty, except for the elimination of one decision-making instrument (joint actions) and the addition of two. *Framework decisions* are for approximating the member states' laws and regulations and bind them as to the results to be achieved, but leave implementation up to the member states. *Decisions* implement any other JHA objective and are binding. The EP must be consulted before binding instruments are adopted. The Amsterdam Treaty also incorporates the Schengen agreement (with British and Irish opt-outs).[30] The

Amsterdam reforms mean that the broad AFSJ agenda is now a matter of cross-pillar cooperation between the first and third pillars.

After the Amsterdam Treaty was signed, the large member states (in particular France and the UK) increasingly saw the utility of cooperation on JHA issues. In December 1998, the Justice and Home Affairs Council approved a joint Council and Commission action plan, which prioritized measures to be taken in the short and medium term to implement the AFSJ objective.[31] More importantly, the member states agreed to a suggestion by European Commission President Jacques Santer, in 1998, that there should be a special European Council meeting on JHA. This was held in Tampere (Finland), on 15–16 October 1999. The European Council agreed several ambitious priorities, including:

- the development of a common asylum system and common management of migration flows;
- mutual recognition of judicial decisions and approximation of legislation as necessary;
- a fast-track extradition system; and
- setting up a unit of national prosecutors, magistrates or police officers, called Eurojust, to help coordinate and support investigations into organized crime, and establishing a European Police College, to train law enforcement officials.

The Tampere European Council declared that in JHA it is essential that 'the Union should also develop a capacity to act and be regarded as a significant partner on the international scene.'[32] It asked the Council to define objectives and measures for external action, and the Council's report noted that the aim was 'not to develop a "foreign policy" specific to JHA.'[33] Instead, the JHA dimension would be incorporated into EU external policy on the basis of a cross-pillar approach and cross-pillar measures. The Council proposed several priority areas for cooperation:

- ensuring the effective adoption of the JHA *acquis* (all JHA decisions taken thus far) by the applicant countries;
- restoring the rule of law in the Balkans;
- developing partnerships with countries of origin of migration;
- developing partnerships to combat organized crime and terrorism;
- developing partnerships with third countries and international organizations to fight against specific forms of crime such as financial crime, money laundering, trafficking in human beings, corruption, high-tech crime and environmental crime; and
- developing policies and partnerships to combat drug-trafficking.

The European Commission produces a biannual scoreboard on the implementation of the Tampere conclusions, and each presidency also issues progress reports.[34] These documents illustrate a mixed record. Few of the decisions produced in the JHA pillar are binding; most are still 'soft law', which, granted, may encourage integration over time. The need for unanimity hampers agreement, and there is little support for using QMV. However, in response to the terrorist attacks of 11 September 2001 on the US, there were major breakthroughs in fulfilling the Tampere agenda, including agreement on a common definition of 'terrorism' and on a European arrest warrant (see chapter 8).

2.5 Conclusion

The institutions and procedures that have developed in the broad field of external relations have constantly been under revision. The member states have sought to balance their growing economic strength with a political voice in international affairs. They have also tried to address the implications of international change – including the rise in international crime and the expectations that the EU will assume more responsibilities for ensuring peace and security, especially in its periphery. But they have not agreed to establish supranational procedures and institutions in sensitive issues such as foreign and defence policy, or police cooperation. We are nowhere near the establishment of a *single* European foreign policy. But there is still a push to improve and strengthen the EU's international role, and to create new forms of governance in the intergovernmental pillars.

The effects of enlargement on the EU's external relations have thus far been positive: new member states bring with them their own links to different third countries, and this has expanded the extent of the EU's network of relations. Enlargement has not made it more difficult to reach agreement among the member states on strengthening institutions and procedures (albeit within limits), though more member states may possibly complicate decision-making on particular cases. As discussed in chapter 1, there is a debate on the effects of the next enlargement: it could reinforce the EU's 'neo-medieval' characteristics, or encourage a core group to press ahead with deeper integration. Either outcome could harm the EU's capacity to formulate and implement common foreign policies, but past precedent still belies this scenario.