

Chapter 22

External Policies

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The EU is an important actor on the world stage. It is so partly because of its size and resources and partly because of its ability to act in a united, or at least coordinated, manner in a range of external policy contexts and settings.

There are four main aspects to the EU's external relations: trade; foreign, security and defence; development; and the external dimension of internal policies. Each of these will be examined in this chapter.

External Trade

The EU in the world trading system

The member states of the EU present a united front to the world in respect of international trade and they act as one in contracting the terms of trade agreements. If they did not do so the unified internal market would not be possible.

The main foundations of the united front are the Common Customs Tariff (CCT) – or Common External Tariff (CET) as it is also known – and the Common Commercial Policy (CCP). Together, the CCT and the CCP enable, indeed oblige, the member states to act in common on matters such as the fixing and adjusting of external customs tariffs, the negotiation of customs and trade agreements with non-member countries, and the taking of action to impede imports – this being most likely when unfair trading practices, such as dumping and subsidies, are suspected.

The EU conducts trade negotiations in many forums: with single states; with other regional groupings, such as the European Free Trade Association (EFTA) and the Association of South-East Asian Nations (ASEAN); and in international frameworks, of which the most important is the World Trade Organisation (WTO) – which has more than 160 members and which collectively accounts for over 96 per cent of global trade and global GDP.

In these forums the EU is able to bring very considerable economic and trading strengths to bear, as Box 22.1 shows.

The combination of these economic and trading strengths, allied with the fact that in trading forums the EU acts on most matters as a single bloc, means that the EU is an extremely powerful world trading force.

Box 22.1**Economic and trading strengths of the EU**

- The combined gross domestic product (GDP) of the EU-28 in 2015 was around €14.8 trillion, making it the world's largest economy. In percentage terms it accounted for around 22 per cent of world GDP, as compared with around 20 per cent for the USA and 10 per cent for Japan.*
- The EU accounts for around one-fifth of world exports and imports (excluding internal EU trade), which is slightly more than the USA and much larger than Japan (which accounts for around 7 per cent).
- The EU market, with around 510 million people (about one-seventh of the world's population), is much larger than both the US market, which numbers just over 290 million people, and the Japanese market, which numbers around 130 million.
- Many of the countries and groupings with which the EU negotiates on trade matters are heavily reliant on the EU market for their exports – either for reasons of geography (as most obviously with non-EU European countries) or historical linkage (as with former French and UK colonies).

* These figures vary according to the measuring criteria that are used. For example, Webber (2016) quantifies the respective EU, USA, and Japanese percentage shares of the world economy in 2014 as being 16.9, 16.4, and 4.4.

Trade policies

The EU presents itself as being committed to a liberal trade policy and as having as its main focus in external trade negotiations the opening up of markets. Priorities for the EU in external trade negotiations include: the lowering of international customs duties; the removal of non-tariff barriers to trade; and the opening up of hitherto restricted spheres of trading activity, especially those, such as financial services, in which the EU, or at least some of its member states, are strong.

It is a liberal trading policy, however, that is not always pursued with complete consistency or uniformity. The governments of the member states frequently seek to cope with 'special' national economic circumstances and accompanying political pressures by pressing for the EU to adopt protectionist measures. EU trade policy is thus concerned not only with promoting the general liberalisation of trade but also with ensuring that the consequences of this are not damaging for its member states. This results in trade policy also being much taken up with matters such as the seeking of special exemptions from general trade agreements, the negotiation of 'orderly marketing' agreements with more competitive countries, and the imposition of anti-dumping duties where competitor countries are seen as engaging in unfair competitive

practices. Anti-dumping measures are mainly taken against Asian countries.

The most obvious sectoral sphere of EU protectionism is agriculture, which has long been sheltered from the full rigours of external competition by domestic support to agricultural producers and barriers on the one hand and high tariffs on imports on the other. Under WTO pressures, however, the EU has been changing these policies and since the mid-1990s has been moving away from price support to income support, has been removing export refunds and has been a particular target for other agricultural exporting countries because of their distortion of world agricultural markets), and has been lowering agricultural tariffs (see Chapter 21 for details). Other sectors that have attracted EU special protection include the motor vehicle industry, which has been assisted by export restraint agreements with Japan, and textiles, where there have long been restrictions on various sorts of imports from the Far East.

Beyond 'strict' trade issues, the EU often deals with, and indeed brings, other issues into trade negotiations. This is part of a general process by which the international trade agenda has been broadened and politicised over the years. So, politically sensitive trade-related matters such as labour standards and environmental protection increasingly feature in trade talks, as do issues concerning human rights.

EU takes, in relative terms, such matters.

All of these trade practices were affirmed in the comprehensive October 2015 *Trade for All: Trade and Investment* (2015g). Directed at the responsibility by basic effectiveness, transparency included and negotiation policies and negotiation scale of EU trade priorities included.

- Concluding major negotiations, especially on the WTO, the Transatlantic Trade and Investment Partnership (TTIP), free trade agreements, investment agreements (opened in 2013.)
- Opening new negotiating regions, including the Pacific region, including New Zealand, the Philippines, and Chile) and the Caribbean.
- Deepening relations with

Amongst these priorities is the TTIP. This has been the USA is the EU. The agreed TTIP would be an agreement in terms of its scale (it covers a wide range of 'behind the border' issues – including investment, and best practices on what and where EU standards are concerned matter – the dispute resolution mechanism (ISDS) for large firms to resolve disputes (official processes); the TTIP perceived by both sides in response to the challenges, the challenge of 'having the negotiations again' (G

...in relative terms, an 'advanced' position on matters.

All of these trade and trade-related principles and values were affirmed and updated in a comprehensive October 2015 Commission communication entitled *Trade for All: Towards a More Responsible Trade and Investment Strategy* (European Commission, 2015). Directed at making EU trade policy more responsible by basing it on core principles – of openness, transparency and values – the communication included an updated prioritisation of trade issues and negotiations. These priorities show the scale of EU trade policy activities, with the identified priorities including:

- Concluding major ongoing rounds of negotiations, especially on the (stalled) Doha Round of the WTO, the Transatlantic Trade and Investment Partnership (TTIP) with the USA, the EU–Japan free trade agreement (FTA), and the EU–China investment agreement. (All of the latter three were opened in 2013.)
- Opening new negotiations in the Asia-Pacific region, including FTAs with Australia, New Zealand, the Philippines, and Indonesia.
- Modernising existing FTAs (including with Mexico and Chile) and the customs union with Turkey.
- Deepening relations with African partners.

Amongst these priorities, most attention has been given to TTIP. This has been because of: its importance (the USA is the EU's biggest trading partner and an agreed TTIP would be by far the world's largest trade agreement in terms of its foreseen economic gains); its scale (it covers not only free trade but also many sorts of 'behind the border' and new trade-related issues – including mutual recognition, public procurement, and best practices); its controversiality (including on what and what not should be covered, whether EU standards are endangered, and – a particular contended matter – the proposed investor-to-state dispute mechanism (ISDS), which many have feared would enable large firms to seek compensation outside normal judicial processes); and its wider significance, with TTIP perceived by both the EU and the USA 'as a strategic response to the changing global trading order' (in particular, the challenges from emerging economies) and with it 'having the potential to kick-start the WTO negotiations again' (Gstöhl, 2016: 2).

Trade and trade-dominated agreements

The EU has trade agreements, or agreements in which a substantial part of the content is concerned with trade, with just about every country in the world. These agreements take a number of different forms, both in terms of the extent to which they remove barriers to market access and the number and range of non-trade matters that are covered. Some of the agreements are best viewed as being part of the EU's development cooperation policies and, as such, are considered in the section on development cooperation later in the chapter. Trade agreements that are not part of development cooperation policy are of three main types. In 'ascending' order – from minimalist to maximalist – they are:

Trade agreements

These are based on Article 207 TFEU, which obliges the EU to operate a CCP. The opening paragraph of Article 207 is set out in Document 22.1.

Article 207 agreements may be preferential or non-preferential in kind, but they are all subject to the general framework of international trading rules established within the framework of the WTO. These rules prohibit preferential agreements unless waivers are negotiated.

But though Article 207 agreements must be established on WTO rules, general WTO-led multilateral trade negotiations have made little progress in recent years as a result of the stagnation and then the virtual ending (in 2015) of the Doha Round that sought to liberalise world trading rules and practices. The talks foundered on a number of differences, mainly between developed and developing countries – especially concerning agriculture and also demands from wealthier countries that rapidly developing countries should be less protectionist. In consequence, the EU has increasingly followed the USA's example of engaging in 'competitive liberalisation' and seeking trade agreements, including FTAs, via bilateral negotiations.

The Lisbon Treaty strengthened the EU's position in respect of negotiating trade agreements by explicitly listing services, intellectual property and foreign direct investment in Article 207 and giving them treaty status as exclusive Union competences. Formerly, the Union's exclusive trade policy competence had

Document 22.1

Extract from Article 207 TFEU (on the Common Commercial Policy)

1 The common commercial policy shall be based on uniform principles, particularly with regard to changes in tariff rates, the conclusion of tariff and trade agreements relating to trade in goods and services, and the commercial aspects of intellectual property, foreign direct investment, the achievement of uniformity in measures of liberalisation, export policy and measures to protect trade such as those to be taken in the event of dumping or subsidies. The common commercial policy shall be conducted in the context of the principles and objectives of the Union's external action.

largely been restricted to trade in goods, so the Lisbon changes marked a considerable advance in the EU's, and with it the Commission's (as the EU's main trade negotiator) position. However, so as to provide a measure of continuing national protection, unanimity (rather than the normal Article 207 provision of QMV) was retained in the Council for the taking of decisions in especially sensitive areas – including in respect of cultural and audio-visual services where trade agreements 'risk prejudicing the Union's cultural and linguistic diversity' (Article 207: 4(a)).

Trade and economic cooperation agreements

The Treaty base of these agreements depends on their precise nature, but there is usually some combination of Article 207 and at least one other article. So, Article 218 of the TFEU, which sets out procedures for the contracting of external agreements, is almost invariably used, whilst Article 209 applies when there is a development cooperation dimension to agreements. The number of trade and cooperation agreements has increased enormously over the years and their scope has steadily expanded. At their core are trade preferences of various kinds and usually also assistance of some sort from the EU to the other signatory(ies). In some cases, as with partnership and cooperation agreements with several states that were part of the former Soviet Union, free trade is an eventual objective. Since the late 1980s, political conditions – usually concerning human rights and democratic processes – have routinely been part of cooperation agreements.

Association agreements

These are based on Article 217 TFEU, which states that 'The Union may conclude with one or more third countries or international organisations agreements establishing an association involving reciprocal rights and obligations, common action and special procedure.' Typically, association agreements include highly preferential access to EU markets, the prospect of a free trade area eventually being formed between the signatories, economic and technical cooperation of various sorts, financial aid from the EU, political dialogue – in some cases – the prospect of the associated countries eventually becoming members of the EU.

There are currently three broad categories of association agreements with the EU. First, there are countries that are seeking and have realistic prospects of EU membership. Turkey is in this category. So are most of the states of the Western Balkans – Albania, Bosnia and Herzegovina, Croatia, Macedonia, Montenegro and Serbia. All of these Western Balkan states are part of the EU's cooperation process for South-East Europe. This includes the negotiation of association agreements that contain trade, cultural, and political cooperation and that have as their main purpose the promotion of economic assistance with, internal reforms and development. These agreements explicitly hold out the prospect of future membership and are very much part of a pre-accession strategy that is designed to assist economic liberalisation, market adjustment, and political democratisation. Second, there are several Mediterranean states – including the Mashreq and Maghreb countries – that are part of the EU's Mediterranean policy. The prospect

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membership is not part of these association agreements. Third, there are the non-EU members of the European Economic Area (EEA) – Iceland, Norway, and Liechtenstein. The EEA is the deepest of the EU's trade agreements in that it involves not only free trade in goods but also extends the EU's other so-called freedoms (services, capital, and people) to the three EEA states.

* * *

With each of these three types of agreement – trade, cooperation, and association – containing variations in both scope and depth, the EU is thus involved in a wide and complicated range of agreements with trading partners. The agreements can be thought of as constituting a hierarchy of preferences in which the EU and another signatory(ies) of agreements are, moving from the bottom to the top of the hierarchy, bound together in increasingly open market access arrangements and in an array of complex and varied forms of cooperation.

Policy processes

Trade agreements used to be the responsibility of the Commission and the Council. However, the Lisbon Treaty brought the EP very much onto the decision-making stage. It did so in two ways. First, the adoption of legislative measures defining the framework for implementing the CCP were made subject to the ordinary legislative procedure – under which the EP is a co-decision maker with the Council (see Chapter 19 for a description of the procedure). This means that the EP has co-equal powers with the Council on such matters as trade preferences for developing countries and protections (such as anti-dumping measures) against unfair competition. Second, the EP was given significantly greater powers in respect of the negotiation and contraction of trade agreements, including needing to give its consent before agreements can be ratified.

The normal procedure for contracting trade agreements is set out in Box 22.2. The powers of and the relations between and within the EU institutions in connection with the making of trade agreements are such that tensions of various sorts are by no means uncommon. Four areas cause particular difficulties, and a fifth has the potential to do so.

First, the power balance between the Council and the Commission can be very delicate, with the Council trying to ensure that the Commission remains under

its control and the Commission wanting and needing enough manoeuvrability to enable it to be an effective negotiator.

Second, the different national interests and preferences of the member states can create difficulties in the Council. Apart from differences that arise on specific issues, there is a broad underlying difference, with some countries – including France, Italy, Spain and Greece – tending to favour a measure of protectionism and other countries – led by Germany and the UK – tending more towards trade liberalisation.

Third, problems can arise within the Commission, with disputes between Commissioners and between DGs about where policy responsibilities lie and who has a legitimate interest in particular external trade policies and agreements.

Fourth, now that almost all trade agreements are subject to the EP's approval, the Parliament has, in customary manner, strongly asserted itself and used its Lisbon-given powers to the maximum. For example, shortly after assuming its strengthened powers in 2010, it insisted, as a condition of its approval, that human rights, labour, and environmental protections be inserted into trade agreements with Columbia and Peru. In 2012 it rejected, because of civil liberties concerns, the Anti-Counterfeiting Trade Agreement (ACTA) that was aimed at preventing copyright infringements. And since the TTIP negotiations opened in 2013, it has made its views known to the Commission and the Council on many issues (not least on ISDS), both via plenary-approved resolutions and by exchanges in EP committees.

The fifth area mentioned above, and the one that has the potential to cause difficulties, is national ratifications. As noted in Box 22.2, only Council and EP approval is necessary for trade agreements, but such agreements increasingly include matters that, strictly speaking, go beyond trade and include the likes of regulatory, social, environmental, and consumer protection issues. This resulted, in 2016, in the Commission conceding that the long-negotiated EU–Canada trade agreement, called the Comprehensive Economic and Trade Agreement (CETA), was in fact a mixed agreement, which meant that it also needed the ratification of member states. This, in turn, resulted in some member states insisting that declarations be attached to CETA addressing national concerns and also resulted in the Belgian government being initially unable to ratify the agreement because it was not supported by, as it was obliged to be if Belgium was to

Box 22.2**The 'standard procedure' for contracting an external trade (Article 207 TFEU) agreement**

- The Commission makes a recommendation to the Foreign Affairs Council that the EU should seek to conclude a trade agreement with a third country or organisation. (There is no separate Trade Council, but at the Foreign Affairs Council trade matters are usually handled by Trade Ministers rather than Foreign Ministers.)
- COREPER discusses the Commission recommendation and places it on the agenda of the Council. The Council takes a decision as to whether negotiations should proceed. In making its decision the Council may, on the basis of proposals drawn up by the Commission and perhaps modified by COREPER, give to the Commission a negotiating directive, set of guidelines or – to use the most commonly used, but not most accurate term – a mandate. The Council normally, though not always, can take decisions by qualified majority vote, but in practice it usually proceeds by consensus.
- Working within the framework of the directive it has been given by the Council, the Commission negotiates on behalf of all EU states. The Trade DG normally takes the lead role on behalf of the Commission, but other DGs – including Development, Competition, and Agriculture – are also involved if they have a direct interest. How much room for manoeuvre the Commission has when conducting negotiations varies according to the circumstances. Usually, differences of both principle and special interest between the member states result in negotiating directives being fairly tightly drawn – often reflecting a compromise between those countries tending towards protectionism and those favouring a more free trade approach. While Commission officials acknowledge privately that Council negotiating directives are usually less of a dead weight than is often supposed, the Commission's flexibility in negotiations can be constrained by the necessity of not disturbing compromises that have been agreed only with difficulty in the Council. (Although it should also be said that it is not unknown for the Commission to use Council reins to the EU's advantage: during negotiations it can be helpful to say in response to an unwanted proposal, 'the Council would never agree to that'.)

ratify, the regional assemblies representing the French-speaking parts of Belgium. The very nature of EU trade policy processes was thus brought seriously into question with, in particular, doubts being expressed about whether major and complicated trade deals, such as those being negotiated with the US (in TTIP) and Japan, could in the future be viewed as constituting EU level-only processes. Doubtless in the wake of the troubles in ratifying CETA, procedures will have to be clarified to establish if, to what extent, and in what ways the EU has sole competence to contract all types of trade agreements.

* * *

As for the making of cooperation and association agreements, there are three ways in which their decision-making processes differ from trade agreement decision-making processes. First, unanimity in the Council is more common, with it being a requirement for all association agreements and

also for cooperation agreements that cover areas for which unanimity is required for the adoption of internal rules. Second, because cooperation and association agreements have a broader coverage than trade agreements, more policy actors – including the Commission, Council, the EP and the European External Action Service (EEAS) (see below) – are necessarily involved. So, for example, if a CFSP element is included in an agreement, the High Representative and the EEAS are amongst the significant participatory actors, as is the EP's Foreign Affairs Committee. Similarly, if an agreement includes a cultural cooperation element the Commission's DG for Education and Culture, plus the Education and Culture Committee, are amongst the significant participatory actors. Third, the range of policy issues included in cooperation and association agreements means there is more scope for cross-policy 'trading' and haggling between

Box 22.2 Cont

- Throughout the process, particularly to and from the Council President, the Commission presents that com- members and 'teams' are usually the Commission 'teams' usually focusing on the political stage in a month, national permanent representatives' meetings in other countries, and mutual particular topics.
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Foreign and Trade Policies**Resources and Usage**

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22 Continued

Throughout the period of the negotiations with trading partners, the Commission must report regularly to and consult the Council's Trade Policy Committee. This committee is chaired by the rotating Council Presidency and normally meets weekly to review, discuss, and make decisions on trade agreements that come within the scope of Article 207 TFEU. The Committee meets at two main levels: full members and deputies. At full members' meetings, which are held at least once each month, national 'teams' are usually headed by senior officials from the national ministries responsible for trade and the Commission 'team' is normally headed by the Director General of DG Trade. Full members' meetings usually focus on general trade issues, especially when these issues have reached an advanced or political stage in particular negotiations. At deputy members' meetings, which are held three times a month, national 'teams' are composed of officials from either relevant national ministries or the permanent representations in Brussels and the Commission is represented by officials from DG Trade. Deputies' meetings deal with detailed policy matters. The Trade Policy Committee, which sometimes meets in other configurations to deal with particular aspects of trade policy – such as services, investment, and mutual recognition agreements – is supported by specialised subcommittees that deal with particular topics.

- Since the Lisbon Treaty came into effect, the Commission must also report regularly to the EP (in practice the Parliament's International Trade Committee) on the progress of negotiations.
- During particularly difficult or important negotiations, the Commission may return to the Council for clarification of the negotiating directive, or for an amended directive that might break a deadlock. The Council's Trade Policy Committee can adjust negotiating directives, but anything that is especially sensitive or political is normally referred to COREPER and, if necessary, to the Foreign Affairs Council (Trade) for further discussion. In any case, decisions taken by the Trade Policy Committees must always be endorsed by COREPER and the Council before entering into effect.
- At the (apparent) conclusion of negotiations the Commission may initial negotiated settlements. But, Council approval and EP consent is necessary before agreements can be formally authorised and signed.

actors. For example, the EP has long pressed the importance of the political dimensions – including human rights issues – of association and cooperation agreements.

Foreign and Defence Policies

Resources and problems with their usage

Just as it has with trade policies, the EU has considerable resources at its disposal in respect of pursuing foreign and defence policies. The most important of these resources are set out in Box 22.3.

As with trade policy, the resources need to be harnessed and used in an effective manner if the EU's potential as a foreign policy actor is to be realised. The TEU, under which all the treaty provisions regarding foreign and defence policies fall, certainly obliges the member states to try to act in common whenever possible. So, for example, Article 24 of the Post-Lisbon TEU includes:

Within the framework of the principles and objectives of its external action, the Union shall conduct, define and implement a common foreign and security policy, based on the development of mutual political solidarity among Member States, the identification of questions of general interest and the achievement of an ever-increasing degree of convergence of Member States' actions.

Box 22.3**EU foreign and defence policy resources**

- The EU's membership of 28 member states. Some of these states – notably Germany, France, Italy, Poland, Spain, and the UK – are, in global terms, of at least middle-ranking size and status.
- Many EU member states, and increasingly the EU itself, have extensive diplomatic experience and skills, and also special links with many parts of the world.
- Two EU states – France and the UK – are nuclear powers.
- Two EU states – again France and the UK – occupy two of the five permanent seats on the United Nations Security Council.
- The collective spending of the member states on defence is second only to that of the USA amongst the world's powers. One result of EU defence expenditure is that there are more full-time European troops than there are American.
- The EU's powerful economic and trading capacities are crucial, with international relations now less focused than they used to be on 'traditional' political and military issues and much more focused on economic and economic-related issues.

The Member States shall support the Union's external and security policy actively and unreservedly in a spirit of loyalty and mutual solidarity and shall comply with the Union's action in this area.

The Member States shall work together to enhance and develop their 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 and the High Representative shall ensure compliance with these principles.

But, notwithstanding this forceful language, the EU has considerable difficulty in maximising its potential by acting in a united manner. With trade policy the EU is not only able, but is obliged by treaty, to act in a wholly united

Box 22.4**Obstacles preventing the EU from being able to fully utilise its potential foreign and defence policy resources**

- The EU is not a state and therefore does not have the (usually) long-established 'givens' that help to focus national foreign policy. Most notably, there is no national territory to protect and no national political, economic, social and cultural interests to promote. The EU's territory does not 'belong' to it in the way national territory 'belongs' to member states, and the EU's political, economic, social and cultural interests are by no means clearly defined.
- Many member states, especially the larger ones with long histories of being influential on the world stage in their own right, are reluctant to lose control of policy areas that are so associated with national influence, sovereignty, and identity.
- Some member states traditionally have had special relationships with particular parts of the world that they are anxious to maintain.
- There are sometimes differences between EU states on foreign policy questions arising from such matters as geographical locations, conflicting national needs (e.g. energy dependence), and ideological orientations.
- Virtually all decisions, apart from some policy implementing decisions, must be taken by consensus in the Council.
- In the especially sensitive area of defence policy there are differing national perspectives on whether a distinctive, let alone a comprehensive European defence orientation and capacities are desirable. This feeds into many specific policy questions, including whether and to what extent the defence resources of individual states should be matched and made mutually compatible. (As long as defence expenditure decisions are taken solely within a national framework, there are naturally major problems at European level of duplications, of the non-inter-operability of equipment, and of shortfalls in expensive and sophisticated high-tech hardware.)

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...with foreign and defence policies there are, as ... shows, many obstacles in the way of a joint and ... marshalling of potential power resources.

There are thus many factors preventing the EU ... being as effective an international player in the ... and defence policy spheres as it is in the trade ... area. These factors include the nature and num- ... of the many differences between member states, ... the relationship between foreign and defence ... with national sovereignty, and the requirement ... that most foreign and defence policy decisions must ... be taken by consensus in the Council. On these last ... points, the continuing ultimate independence of ... member states in the foreign and defence policy ... is no more clearly seen than in two declarations ... of the common foreign and security policy that were ... attached to the Lisbon Treaty, extracts from which are ... produced in Document 22.2.

Because of the difficulties of fully harnessing and ... using resources, much of the EU's foreign and

defence policy potential is thus unrealised. For this reason, the EU is often described as being a 'civilian' or 'soft' international power, which means that whilst it exercises a significant influence on the world stage in such areas as trade, finance, and the environment, its contribution is relatively modest in the 'traditional' and 'hard' external policy areas of foreign and defence policy.

This said, however, the extent to which the EU is unable to use its foreign policy resources should not be overstated as, with growing international interdependence, traditional foreign policy has become increasingly enmeshed with soft external policies, including trade and aid. So, even where the seemingly most traditional type of foreign policy differences with other international actors exist, such as with Russia following its annexation of Crimea in 2014, the EU often has potentially powerful instruments to employ in an attempt to exercise influence – in this case, mainly trade and other economic sanctions.

Document 22.2

Extracts from Declarations 13 and 14 of the Treaty on European Union

13 Declaration concerning the common foreign and security policy

The Conference underlines that the provisions in the Treaty on European Union covering the Common Foreign and Security Policy, including the creation of the office of High Representative of the Union for Foreign Affairs and Security Policy and the establishment of an External Action Service, do not affect the responsibilities of the Member States, as they currently exist, for the formulation and conduct of their foreign policy nor of their national representation in third countries and international organisations.

The Conference also recalls that the provisions governing the Common Security and Defence Policy do not prejudice the specific character of the security and defence policy of the Member States ...

14 Declaration concerning the common foreign and security policy

... the provisions covering the Common Foreign and Security Policy including in relation to the High Representative of the Union for Foreign Affairs and Security Policy and the External Action Service will not affect the existing legal basis, responsibilities, and powers of each Member State in relation to the formulation and conduct of its foreign policy, its national diplomatic service, relations with third countries and participation in international organisations, including a Member State's membership of the Security Council of the United Nations.

The Conference also notes that the provisions covering the Common Foreign and Security Policy do not give new powers to the Commission to initiate decisions nor do they increase the role of the European Parliament.

The Conference also recalls that the provisions governing the Common Security and Defence Policy do not prejudice the specific character of the security and defence policy of the Member States.

The evolution of the EU's foreign and defence policies

Notwithstanding the many difficulties and obstacles that characterise the foreign and defence policy areas, important and significant developments have occurred within them since foreign policy was first launched under the name European Political Cooperation (EPC) in 1970. Although the foreign and defence policy areas are, of course, closely entwined, they have tended to be developed within the EU in somewhat separate ways, so the story of their evolution will be taken separately here too.

Foreign policy

Initially on a tentative basis, and quite outside the framework of the Community Treaties, in the 1970s and 1980s the member states increasingly cooperated with one another on foreign policy matters – to such an extent that by the mid-1980s there were few major international issues upon which the EC did not pronounce. The developing importance of foreign policy cooperation was recognised when EPC was accorded its own section – Title III – in the SEA. However, unlike certain other policy areas that were also recognised in the SEA, Title III was not incorporated into the EEC Treaty. This was mainly because the member states were unwilling to allow the normal Community decision-making processes to apply to foreign policy. As a result, EPC continued to be – in a manner that echoes to the present day – much looser and more voluntaristic in nature than most other policy areas with which the Community concerned itself. No laws were made within EPC, most decisions were arrived at by consensus, and no state could be prevented from engaging in independent action if it so chose.

But although the SEA signalled the increasing importance of EU foreign policy and facilitated its further development, until the early 1990s the EU's international standing continued to be very much that of an economic giant on the one hand and of a political pygmy on the other. That is to say, it exercised considerable international influence in respect of economic, and especially trade, matters, but its voice did not count for a great deal in respect of political and, more particularly, security and defence matters. Since the early 1990s, however, this situation has been changing as it has come to be increasingly accepted

by the member states that the EU ought to be doing rather more than issuing general and often anodyne declarations, or, very occasionally, imposing mild economic sanctions against a state to indicate the EU's disapproval of a policy or action. Five factors have been especially important in stimulating this change.

First, the ending of the Cold War and the collapse of communism in the Soviet bloc and the Soviet Union transformed the nature of international power relationships. In particular: the international political context in which Europe found itself changed dramatically, with a shift of focus from the global East–West dimension to regional issues and conflicts; strategically, Europe was no longer squeezed between two superpowers, with little choice but to ally itself to one – the USA – in a more-or-less subservient manner; and the bases of power relationships altered, with nuclear and military capacity becoming less important and economic strength and geographical position becoming more important. In this 'new' world in which international relations have become more fluid and the nature and future development of the European continent has been far from clear, the EU countries naturally have increasingly looked to play a leading part in guiding and managing events. In doing, they have been given encouragement by the USA which, though sometimes troubled when the EU has been seen to be acting *too* independently, has been anxious to lighten some of its international and especially some of its European, commitments.

Second, German reunification increased the pressure for there to be an EU foreign and security policy framework within which Germany is located and to which it is firmly attached. The quoted determination of EU leaders, not least German leaders themselves, in the early 1990s to ensure that Germany is a European Germany rather than a German Germany has been seen by many as needing to apply not only to economic policies but also to foreign and security policies given the sensitivities associated with Germany's past and the actual and potential political ramifications to Germany's east and south.

Third, the EU's responses to the post-1991 up of Yugoslavia and the subsequent hostilities in the Balkans were widely recognised as being inadequately prepared, developed and mobilised. EU states were united in various ways and through various means in policy formulation and the setting up of peacekeeping and humanitarian operations, but there was no

consistent, or coordinated, leadership. What leadership was in evidence in the Balkans was a partial reaction to this aspects of EU foreign policy developed, though not

Fourth, since the demonstrated on security policy will always be kept too apart from The coordination of economic policy they clearly have limited especially the 2011 up East (especially the civil the Russian incursions – in none of which has or threaten to intervene simply shown this weakness

Fifth, and in response starting from the basis have provided for significant security policy cooperation maintained its essential The relevant contents of Part II, so only a brief summary will be given here

The Maastricht Treaty Foreign and Security the EU's second pillar were: (1) the policy in which member states were identified; (2) the common decision-making to be taken by unanimity to include security in the framework of a common foreign and security policy. The Amsterdam Treaty provisions in a number of ways became possible: 'common' decisions; a 'common' was introduced, allowing that otherwise had been advanced a little which were first identified European Union (W) was focused on crisis

the EU ought to be doing. The general and often anodyne response, nationally, imposing military sanctions, is to indicate the EU's inaction. Five factors have been stimulating this change. First, the end of the Cold War and the collapse of the Soviet bloc and the changing nature of international relations. Second, the international system has found itself changing. Third, the focus from the global to the regional issues and conflicts. Fourth, the EU is squeezed between the US and the US choice but to ally itself with the US. Fifth, the less subservient member states, with relationships altered, with the US becoming less important. And geographical position. In this 'new' world, the EU has become more important. The development of the EU is far from clear, the EU has increasingly looked to play a role in managing events. In so doing, it has been encouraged by the US. It has been troubled when the EU has acted independently, has been seen as international and, more importantly, commitments.

The EU has increased the presence of foreign and security policy. Germany is clearly attached. The much-heralded, not least German, policy in the 1990s to ensure there was a German Europe, was to apply not only to foreign and security policy, but also to Germany's political turbulence.

The post-1991 breakdown of hostilities in the Balkans, being inadequately managed. EU states contributed to various forums to try and get up of peacekeeping, but there was no clear, consistent, or coordinated EU response to the situation. What leadership was provided to deal with the turbulence in the Balkans came mainly from the USA. In reaction to this 'failure', the security and defence aspects of EU foreign policy have been considerably developed, though not the EU's military capability.

Fourth, since the 1990–91 Gulf War it has been demonstrated on several occasions that EU foreign policy will always be restricted in its effectiveness if it is kept too apart from security and defence policy. The coordination of diplomatic action and the imposition of economic sanctions are all very well, but they clearly have limitations. Events in North Africa (especially the 2011 uprising in Libya), in the Middle East (especially the civil war in Syria from 2012), and the Russian incursions in Eastern Ukraine from 2014 – in none of which has the EU been able to intervene, or threaten to intervene, in a military manner – have amply shown this weakness.

Fifth, and in response to the factors just identified, starting from the base created by the SEA, treaties have provided for significant advances in foreign and security policy cooperation, albeit on a basis that has maintained its essentially intergovernmental nature. The relevant contents of the treaties were set out in Part II, so only a brief summary of the most salient points will be given here:

- The Maastricht Treaty provided for a Common Foreign and Security Policy (CFSP) to constitute the EU's second pillar. The key elements of the pillar were: (1) the general objectives of the CFSP, to which member states were expected to conform, were identified; (2) the pillar rested on an intergovernmental decision-making base, with decisions to be taken by unanimity; and (3) the CFSP was to include security issues, 'including the eventual framing of a common defence policy, which might in time lead to a common defence'.
- The Amsterdam Treaty strengthened the Maastricht provisions in a number of ways. In particular: QMV became possible for some policy implementation decisions; a 'constructive abstention' device was introduced, allowing a state not to apply a decision that otherwise bound the EU; security policy was advanced a little, with the Petersberg Tasks – which were first identified at a 1992 Western European Union (WEU) conference and which are focused on crisis management, peace-keeping

and humanitarian assistance – incorporated into the TEU; the Maastricht-inserted reference to 'the eventual framing of a common defence policy' was upgraded to 'the progressive framing of a common defence policy'; and support mechanisms were strengthened with the creation within the Council of a CFSP High Representative and a Policy Planning and Early Warning Unit.

- The Nice Treaty further strengthened the potential of CFSP, principally by enabling enhanced cooperation – which had been provided for under the Amsterdam Treaty to enable member states to go forward with an initiative that not all states supported – to be used for the implementation of CFSP joint actions and common positions that do not have military or defence implications.
- The Lisbon Treaty sought to give foreign policy a greater coherence, in particular by replacing the two existing main foreign policy posts – of High Representative for the CFSP and Commissioner for External Relations – with a single post of High Representative of the Union for Foreign Affairs and Security Policy, and by providing for the creation of, with the EEAS, an institution that looked something like an EU Foreign Ministry. (On both the post-Lisbon High Representative and the EEAS, see below.)

The various factors that have just been identified have enabled the CFSP to be greatly developed since it was initiated in the early 1970s. The extent of the development should not, however, be exaggerated, for there cannot yet be said to be a coherent and cohesive EU foreign policy based on a united political strategy that stems from shared understandings of what the EU's foreign policy interests and priorities are and should be. It is also the case that for some member states, especially 'the big three' – France, Germany, and the UK – EU foreign policy is not necessarily seen as taking precedence over national foreign policy. Indeed, EU foreign policy is sometimes viewed, and also used, as a sort of 'top-up' to national foreign policy: an additional mechanism for furthering national interests, and sometimes a useful framework for allowing the EU to deal with issues (such as human rights violations in economically important countries) that states prefer not to manage themselves.

However, these reservations notwithstanding, a foreign policy of sorts certainly exists. Its nature will be further examined later in the chapter.

Defence policy

Security and defence policies have been a particularly difficult area in which to develop EU inter-state cooperation, let alone integration. One reason why they have been so is that security and defence are closely associated with the very essence of national sovereignty. Another reason is the different security and defence capabilities of the member states. A third reason is the varying degrees of willingness by the member states to use armed force when pressed. And a fourth reason is differences between member states regarding their attitudes and degrees of commitment to the various security/defence organisations that exist in the modern world. On this last point, NATO and the transatlantic relationship have been especially problematical, with six EU states not being NATO members (Austria, Cyprus, Finland, Ireland, Malta, and Sweden) and with a range of opinion existing amongst the EU states as to how tightly Europe should be tied in with the USA. Of the large member states, the UK has taken the most pro-USA position, whilst France has been the most reticent and the most forceful champion of European independence.

However, notwithstanding these difficulties, the EU did, as was shown above, begin to engage with security and defence policies from the early 1990s, albeit initially somewhat tentatively. The engagement was occasioned largely by Europe's fragmented and hesitant responses to the conflicts in the Gulf and then the break-up of Yugoslavia, where it showed itself to be capable of contributing to post-war stabilisation and reconstruction but only marginally to military intervention during hostilities. Towards the end of the 1990s, the continuing turbulence in the Balkans, and especially the crisis in Kosovo, displayed Europe's weaknesses and reliance on the political will and military assets of the USA in a particularly stark manner and fully brought out the need for a greater European independent capability in relation to security operations.

The conflicts in the Balkans were instrumental in producing pressures from the USA for more burden-sharing by Europeans. They also resulted in the Europeans being increasingly obliged to face the unsatisfactory features of their military position: as long as the EU lacked an effective military operational capability, the USA would take the policy lead in dealing with conflicts on the continent of Europe; there might be circumstances in which the EU would wish to adopt

a different stance towards conflicts than the USA, but would be unable to do so; and the EU manifestly did not have the rapid and efficient decision-making processes that the management of conflicts require.

The big defence policy 'breakthrough' came in December 1998 when, at a Franco-British summit in St Malo, the two countries that had been almost at opposite ends of the debate about European and American orientations in foreign and defence policy, signalled a convergence in their positions by calling for the creation of a clearer and stronger EU security capability within the NATO framework. The principal significance of St Malo was that not only did the UK end its opposition to defence policy being considered in the EU context, but it made clear its intention to play a leading role in developing the policy sphere. The references to security and defence in the TEU could thus start to be given some real effect.

After St Malo, EU security and defence policies advanced in a number of ways (see pp. 381–3 of the seventh edition of this book for details). In particular, a clear emphasis was placed on conflict prevention and crisis management as the core tasks; provision was made for the creation of a 'headline goal' European Rapid Reaction Force of 50,000–60,000 persons capable of being rapidly deployed (in practice, it has not been created); provision was also made for rapid reaction 'battle groups', made up normally of around 1,500 personnel from three or four states (in practice, while some battle groups have been created, none have been deployed); and from 2003 CSDP missions of various sorts began to be created for the purpose of undertaking Petersberg-focused operations (see Box 22.5).

As a further 'contribution' to the policy advancement, the Lisbon Treaty:

- 1 introduced a – qualified and hedged – defence clause, under which if a member state is the victim of armed attack on its territory the other member states are obliged to provide it with assistance, subject to conditions;
- 2 accorded security and defence policy its own section in the TEU, whilst emphasising that it is an integral part of the CFSP;
- 3 symbolically re-named the policy area, which has since come to be collectively known since the 1998 summit as the European Security and Defence Policy (ESDP), the Common Security and Defence Policy (CSDP).

Box 22.5

Core features

- The CSDP is limited to 12,500 personnel, left to NATO for other focus, their common missions were operational Military Advisory Mission (EUAM).
- The CSDP is firmly only when NATO.
- The main decision demonstrated that civilian and military means.
- There is not, nor is it, used by autonomous European military number and deployment of as a mechanism for (In practice, although).
- The CSDP project is and from EU application.

An important aspect of the EU's security policy has been underway in the broad view has been the EU is to have effective. The broadening is re- range of CSDP m- virtually all of which a- of civilian, police, and te- military personnel. It is re- tion of the TEU which, c- increasingly been doing in p- operation of the Petersb- tasks in which the Uni- means shall include:

... disarmament operati- ... tasks, military advi- ... conflict prevention and pe- ... combat forces in crisis m- ... decision-making and post-con-

22.5

Features of the Common Security and Defence Policy

The CSDP is limited in its security aims to the Petersberg Tasks, broadly defined. 'Traditional' defence is left to NATO or national efforts.

Petersberg-related tasks are undertaken by CSDP missions and operations, which vary greatly in their nature, their compositions, and their sizes. Most missions employ a staff number of between 500 and 1,000 personnel. Since the first mission in 2003, over 30 have been deployed. In mid-2016, 16 CSDP missions were operational, including the EU Border Assistance Mission (EUBAM) in Libya, the EU Military Advisory Mission in the Central African Republic (EUMAM RCA), and the EU Advisory Mission (EUAM) in Ukraine.

The CSDP is firmly located within NATO and the transatlantic alliance. The EU will act 'autonomously' when NATO chooses not to act.

The main decision-making processes of the CSDP are intergovernmental. This is no more clearly demonstrated than by it being left entirely to national governments to decide to which, if any, EU civil and military missions they will contribute, by how much, and in what ways.

There is not, nor is there to be, a European army. Certainly the battle groups are capable of being mobilised by autonomous European action, they do have a European command chain, and they do draw on European military resources. However, they are not standing forces, each country retains control over the number and deployment of its troops, and there is no common uniform. Battle groups are best thought of as a mechanism for allowing troops to be called up to undertake military-based fire-fighting operations. In practice, although over 30 battle groups had been constituted by mid-2016, none had been deployed.) The CSDP project is open in that the EU wishes to receive contributions from non-EU NATO members and from EU applicant states.

An important aspect of the policy advancement that has been underway in the 2000s is that an increasingly broad view has been taken of what is necessary if the EU is to have effective security and defence policies. The broadening is reflected in the increasingly wide range of CSDP missions the EU has in the field, virtually all of which are staffed mainly by a variety of civilian, police, and technical experts rather than military personnel. It is reflected also in the Lisbon Treaty of the TEU which, codifying what the EU had increasingly been doing in practice, gives an expansive interpretation of the Petersberg Tasks by stating that the tasks in which the Union may use civilian and military means shall include:

joint disarmament operations, humanitarian and rescue tasks, military advice and assistance tasks, conflict prevention and peace-keeping tasks, tasks of combat forces in crisis management, including peace-making and post-conflict stabilisation. All

of these tasks may contribute to the fight against terrorism, including by supporting third countries in combating terrorism in their territories. (Article 43:1 TEU)

However, extensive though the advancement of security and defence policy advancement has been, it should not be overstated. As Box 22.5 shows, much of it has been firmly framed within a number of enduring and core features, of which the most important are a clear intergovernmental base, a commitment to the Atlantic Alliance, and a limitation on the sort of operational tasks in which the EU will engage. Member states periodically issue and discuss proposals for further reinforcing solidarity and improving capability, as in September 2016 when Germany and France set out plans for closer EU defence cooperation, including for a new command centre involving the sharing of specified resources and tasks. But though such proposals usually meet

* * *

- *Soft security policy* focuses on the promotion of peace and security and uses non-military tools for this purpose. Examples of EU soft security devices include, at a general level, the EU enlargement process, and at a more specific level the Regional Cooperation Process (for South Eastern Europe) in which a range of trade, aid, and political cooperation instruments feature. The appointment of EU 'special representatives' (of which there are nine at the time of writing) to address problems in trouble spots may also be regarded as essentially soft policy instruments. Amongst locations in which such EU representatives have been appointed in recent years are the Balkans, Afghanistan, the Middle East, and the Horn of Africa.
- *Hard security policy* involves being prepared to use a capability, including a military capability, for such purposes as conflict resolution, peace-keeping, and peace monitoring. These are precisely the sort of operations that make up the Petersberg Tasks and to which CSDP missions and battle groups can be deployed (see Box 22.5). However, in practice, no battle groups have been deployed, whilst most of the missions that have been created are mainly not at the 'hard' end of security operations and consist largely of non-military personnel who assist with such tasks as establishing law and order, building independent and effective police forces and judiciaries, and institution-building.
- *Defence policy*, as traditionally understood, has at its core using military force, if necessary offensively, for the defence of territory and for 'high security' reasons. The EU is not involved in using and is not seeking such a capability.

Having established that the EU has considerable resources at its disposal in the foreign and defence policy spheres, and having established also that the policy areas have – notwithstanding the many obstacles in their way – developed considerably since their origins in EPC, attention is now turned in this and the next section to the aims of the policies and the instruments that are available to try and give them effect.

As specified in Article 21 TEU, the EU thus has a number of foreign policy goals, at the heart of which are such 'worthy' intentions as promoting peace, democracy, liberty, and human rights. The TEU does, of course, identify policy aims only in very general terms and it is left to policy documents and policy actors to develop more specific aims and objectives and to specify the precise nature of policy instruments and the circumstances in which they should be used. Particularly important documents in this respect have been a European security strategy issued in 2003 entitled *A Secure Europe in a Better World* (European Council, 2003b), and a global strategy issued in 2012 entitled *Shared Vision, Common Action* (Mogherini, 2016). Particularly important policy actors have been the European Council, the Foreign Affairs Council, and the High Representative.

Although it is not explicitly mentioned in the Treaty, a particular focus of EU foreign policy is cultivating cooperative and stable relations with, and promoting 'western' democratic values and practices in, neighbouring states to the south and east. As an enlargement policy – which, as Chapter 5 shows, makes much of the political conditions states wishing to accede to the EU must meet – is a key foreign policy focus. So too is the European Neighbourhood Policy (ENP), which was launched in March 2003 with the aim of developing 'a zone of prosperity and a free neighbourhood – a "ring of friends" – with which the EU enjoys, close, peaceful and co-operative relations' (European Commission, 2003). The ENP was not started from scratch but rather built on existing

- 1 The Union's action shall be based on its own creation, on the principle of democracy, the rule of law, mutual respect for human rights and the United Nations Charter.
- The Union shall promote multilateral regional or global cooperation in order to promote multilateralism.
- 2 The Union shall ensure that its cooperation in the field of development is:
 - a) safeguarded;
 - b) consolidated;
 - c) preserve peace;
 - d) foster the economic growth with the private sector;
 - e) encourage the progressive abolition of discrimination;
 - f) help develop sustainable development;
 - g) assist popular participation;
 - h) promote accountable governance.
- 3 The Union shall coordinate its policy and its other policies with the European Union for Foreign Affairs and Development Policy.

...relations between
...states to the east
...states to the south
...plans – covering
...cultural cooperation
...ENP states on individual
...part of an overall
...of the ENP has been
...relations with its neigh-
...and ordered frame-
...ENP focus has been

Document 22.3

Article 21 of the Treaty on European Union (on the principles guiding its external relations)

1 The Union's action on the international scene shall be guided by the principles which have inspired its own creation, development and enlargement, and which it seeks to advance in the wider world: democracy, the rule of law, the universality and indivisibility of human rights and fundamental freedoms, respect for human dignity, the principles of equality and solidarity, and respect for the principles of the United Nations Charter and international law.

The Union shall seek to develop relations and build partnerships with third countries, and international, regional or global organisations which share the principles referred to in the first subparagraph. It shall promote multilateral solutions to common problems, in particular in the framework of the United Nations.

2 The Union shall define and pursue common policies and actions, and shall work for a high degree of cooperation in all fields of international relations, in order to:

- safeguard its values, fundamental interests, security, independence and integrity;
- consolidate and support democracy, the rule of law, human rights and the principles of international law;
- preserve peace, prevent conflicts and strengthen international security, in accordance with the purposes and principles of the United Nations Charter, with the principles of the Helsinki Final Act and with the aims of the Charter of Paris, including those relating to external borders;
- foster the sustainable economic, social and environmental development of developing countries, with the primary aim of eradicating poverty;
- encourage the integration of all countries into the world economy, including through the progressive abolition of restrictions on international trade;
- help develop international measures to preserve and improve the quality of the environment and the sustainable management of global natural resources, in order to ensure sustainable development;
- assist populations, countries and regions confronting natural or man-made disasters; and
- promote an international system based on stronger multilateral cooperation and good global governance.

3 The Union shall ensure consistency between the different areas of its external action and between these and its other policies. The Council and the Commission, assisted by the High Representative of the Union for Foreign Affairs and Security Policy shall ensure that consistency and shall cooperate to that effect.

bilateral relations between the EU and mainly former Soviet states to the east and north African and Middle Eastern states to the south and south east. As such, action plans – covering mainly trade, aid, and political and cultural cooperation – have been negotiated with ENP states on individual bases, rather than collectively as part of an overall ENP action programme. The aim of the ENP has been to place the EU's bilateral relations with its neighbours within a more coherent and ordered framework. However, concerns that the ENP focus has been too broad to be effective has

resulted in it, in effect, being sub-divided into two more regionally directed initiatives: the Union for the Mediterranean, which was launched in 2008, and the Eastern Partnership, which was launched in 2009.

The ENP was launched at a time when the notion of the EU being surrounded by a 'ring of friends' was realistic, but in recent years it has looked more like a 'ring of fire', with the collapse of 'the Arab Spring' to the south, the Russian intervention in Ukraine to the east, and, slightly further away, the turbulence in the Middle East. The reality is that the EU's (still remaining) hopes

that neighbouring states can be 'westernised' have not been realised, with many of them having displayed a deep aversion to reform. The EU has reacted to this and to related increasing concerns about migration, the threat of international terrorism, and external turbulence with an upgrading of the importance it attaches to stabilisation in the neighbourhood. In the words of a 2015 joint communication from the Commission and the High Representative setting out the bases of a 'new' ENP: 'In the next three to five years, the most urgent challenge in many parts of the neighbourhood is stabilisation' (European Commission and High Representative, 2015: 3).

More broadly, as the 2016 global strategy document shows, this increased emphasis on European stabilisation reflects something of a downgrading of the (largely unsuccessful) values-based foreign policy approach and a move in the direction of realism. 'Principled pragmatism will guide our external action in the years ahead' (Mogherini, 2016: 8). In this context, five priorities have been identified: enhancement of the security of the Union; investing in state and societal resilience to the East and the South; promoting an integrated approach to conflicts; supporting cooperative regional orders; and assisting with the development of a global order based on sound governance principles (Mogherini, 2016: 9–10).

Policy instruments

On the basis of Article 25 of the TEU (see Document 22.4) and also of a number of other treaty articles (both

TEU and TFEU), the EU has many potential policy instruments at its disposal for use in specific situations:

- It can adopt actions and positions on the basis of Article 25 (b): (i) and (ii).
- It can use diplomatic channels to exert political pressure: there are few significant foreign policy issues upon which an EU statement or declaration is not issued.
- It can, especially in its relations with less developed states and states with which it has association or cooperation agreements, make use – in both 'offering' and 'withdrawing' ways – of trade benefits, economic and financial assistance, and technical, scientific, cultural and other forms of cooperation. The use of these types of instrument involves the CFSP 'using' the economic strength of the EU.
- It can, as was noted above in the account of the development of EU defence policy, utilise its growing capability in putting together civilian, police, and military missions. However, a military capability is only available for very restricted purposes. Furthermore, there are, for the reasons that are set out in Box 22.6, major obstacles in the way of the capability being much further developed on an EU-wide basis.

Examples of foreign policy in action

Much of EU foreign policy is, by its very nature, conducted on an ongoing basis in incremental, informal, unrecorded, and diplomatic ways. Its exercise is that

Document 22.4

Article 25 of the Treaty on European Union (setting out the means by which the Union shall conduct the CFSP)

The Union shall conduct the common foreign and security policy by:

- a) defining the general guidelines;
- b) adopting decisions defining:
 - (i) actions to be undertaken by the Union;
 - (ii) positions to be taken by the Union;
 - (iii) arrangements for the implementation of the decisions referred to in points (i) and (ii); and
- c) strengthening systematic cooperation between Member States in the conduct of policy.

Box 22

Obstacles to EU security capabilities

- A number of ideological and security issues have been identified, including the UK, Germany, and the US, which are supporting the EU's security and defence policy.
- Many member states have different options for security and defence, which have been developed from time to time.
- Without a common security and defence policy, the EU's security and defence policy is heavily reliant on the logistical and capacity of its member states, which is not established or equipped for the EU's needs.

often not recognised or not recognised as made and developed by their policy instruments. It will, therefore, be a matter of external policy and driven largely by the interests of the member states.

After Kosovo in 2008, relations between the former part of Serbia and the five member states of Slovakia, and the EU, including the EU's encouragement of ethnic minorities, were refusing to accept independent status. That between 2008 and 2010, the EU's security and defence policy was heavily reliant on the logistical and capacity of its member states, which is not established or equipped for the EU's needs.

Box 22.6**Obstacles to the EU developing a fully fledged security and defence policy capability**

- A number of member states, especially those with a tradition of neutrality or semi-neutrality, are – for ideological and historical reasons – reluctant to overdevelop security and defence policies.
- Security and defence policies raises sovereignty concerns for virtually all member states.
- Security and defence issues still sometimes divide member states in terms of both ends and means. This was demonstrated most dramatically in 2003 when the EU split over the US-led invasion of Iraq: the UK, Denmark, Italy, Spain, and most of the (soon-to-become EU members) CEECs were prominent in supporting the invasion, whilst France, Germany, Belgium, and Finland were prominent in opposing it.
- Many member states see no need to take EU security and defence policies too far given that other defence options are available to them. The most obvious of these options is NATO, to which most EU states belong. There is little desire to downgrade NATO's role or to loosen the EU's bonds with the USA. Additional security and defence options include the Organisation for Security and Cooperation in Europe (OSCE), which has been active in the Balkans, and the *ad hoc* coalitions of 'the willing and able' that are constituted from time to time – such as France and the UK cooperating in the bombing of Libya in 2011.
- Without significantly higher levels of expenditure on security and defence, the EU will continue to be heavily reliant on NATO/the USA for such key military resources as satellite technology, heavy airlift, logistical support, and some armaments. Within the EU a variety of means are being used to enhance the capacity of European security and defence – including work by the European Defence Agency (which was established in 2004) to improve the availability, mobility and deployability of forces, the interoperability of equipment, and the procurement of munitions – but the reality is that there is no immediate prospect of the EU being able, let alone willing, to embark on a major military campaign without US assistance.

often not recognised. EU foreign policy is also often not recognised because it is inextricably linked with trade and development policy and is heavily reliant on their policy instruments.

It will, therefore, be useful to cite here a few examples of external policies that clearly have been shaped and driven largely by foreign policy considerations.

- After Kosovo declared independence from Serbia in 2008, relations between the two were tense. The former pressed for international recognition whilst the latter insisted that Kosovo remained part of Serbia. EU mediation ensued, even though five member states – Cyprus, Greece, Romania, Slovakia, and Spain – for a mixture of reasons, including empathy with Serbia and not wanting to encourage ethnic-based pressures for separateness, were refusing to officially recognise Kosovo as an independent state. The mediation was successful in that between 2013 and 2015 a series of steps were

taken to normalise relations between the two. The key reason for the EU's success was that the regularisation of relations between Serbia and Kosovo was made conditional for the opening of membership negotiations with Serbia and the opening of accession agreement talks with Kosovo.

- Following the collapse of the Soviet Union in 1991, the EU sought cooperation with Russia and vice versa. However, though some progress was made over the years in achieving this, primarily via improved commercial relations, a running problem always was, as Forsberg and Haukkala (2016: 1) have put it, differences between the EU and Russia on whose terms the cooperation should be carried out. In an attempt to give the cooperation a boost, the EU's language was upgraded at a summit between President Putin and the Presidents of the European Council and the Commission in January 2014 when the two EU Presidents talked of the prospect of free trade from the Atlantic to

the Pacific and of a common economic space from Lisbon to Vladivostok. This was, however, to no avail, when Russia, annoyed with its very limited success in creating a Eurasian Economic Union (EEU) and Ukraine's 'turn to the West', annexed the Crimea in March 2014 and began militarily intervening in eastern Ukraine. In reaction, the EU imposed economic sanctions on Russia which, though they continue to date, have been the cause of internal differences between member states. Amongst the member states least favourable to stiff sanctions have been Spain, Cyprus, Greece, Hungary, and Italy.

- The EU was a leading participant (with the USA) in the negotiations that led in 2015 to Iran halting its nuclear development programme 'in exchange' for the lifting of economic sanctions against it.
- As noted above (see Box 22.5), the EU has deployed over 30 CSDP missions and operations. Most of these have been civilian or civilian-dominated, but a few have had significant military dimensions, including anti-piracy operations near the Somali coast and military training missions in Mali and Niger.

As these varied examples show, the EU thus has a highly active foreign policy. It does not however, involve hard security policy aims or instruments, as the EU's absence from military intervention or involvement in such troubled neighbouring states as Libya, Syria, and Ukraine demonstrate.

Policy processes

Because of the politically sensitive nature of much of their policy content, CFSP/CSDP policy processes have never been part of the EU policy process 'mainstream'. (Because CFSP/CSDP processes are, for the most part, one and the same, to avoid possible confusion only CFSP will be used below.) Rather, the processes display four distinctive features:

- *They are separately provided for in the treaties.* Throughout the rounds of treaty reform that began with the SEA, CFSP processes have not been placed within the TEC – now TFEU. In the SEA itself they were 'self-standing' and since the Maastricht Treaty they have been located within the TEU. This has meant, amongst other things, that the role of the Commission has never been as strong in relation to

the CFSP as it has in relation to most other policy areas and also that the jurisdiction of the EU's courts has not extended to the CFSP.

- *They are intergovernmentally based.* CFSP processes have not been so subject to the 'supranational drift' that has characterised other policy areas, where unanimous decision-making in the Council has generally been replaced by the availability of QMV and where the EP has moved from a position of adviser to co-decision maker. Some QMV is now available in the Council for CFSP matters, but not for significant policy-making decisions, and though the role of the EP has been advanced it is still largely restricted to a consultative role only.
- *They rest on extensive inter-state consultations.* Whilst virtually all EU policy activity involves extensive consultations between representatives of the member states and relevant EU-level practitioners, CFSP policy processes are particularly centred on an intensive network of consultative arrangements. There are almost constant contacts and rounds of meetings at political and official level, mostly designed to try and ensure there is a maximum information flow and as much cooperative activity as possible. In these ongoing contacts and meetings, policy options and possibilities are discussed, and what is feasible and what means normally gradually emerges.
- *They have their own institutions.* Since the Amsterdam Treaty the CFSP has had, with the High Representative, its own distinctive institutional position. This position was considerably revamped and strengthened by the Lisbon Treaty, which gave the CFSP an administrative base separate from the Commission and the Council – with the creation of the European External Action Service (EEAS).

The roles and powers of the CFSP's main institutional actors, and how they interact with one another in CFSP policy-making processes, will now be described. Figure 22.1 outlines the main processes in diagrammatic form.

The European Council

Article 26 of the TEU – most of which is reproduced in Document 11.4 on p. 197 – states that:

The European Council shall identify the Union's strategic interests, determine the objectives of and define general guidelines for the common foreign

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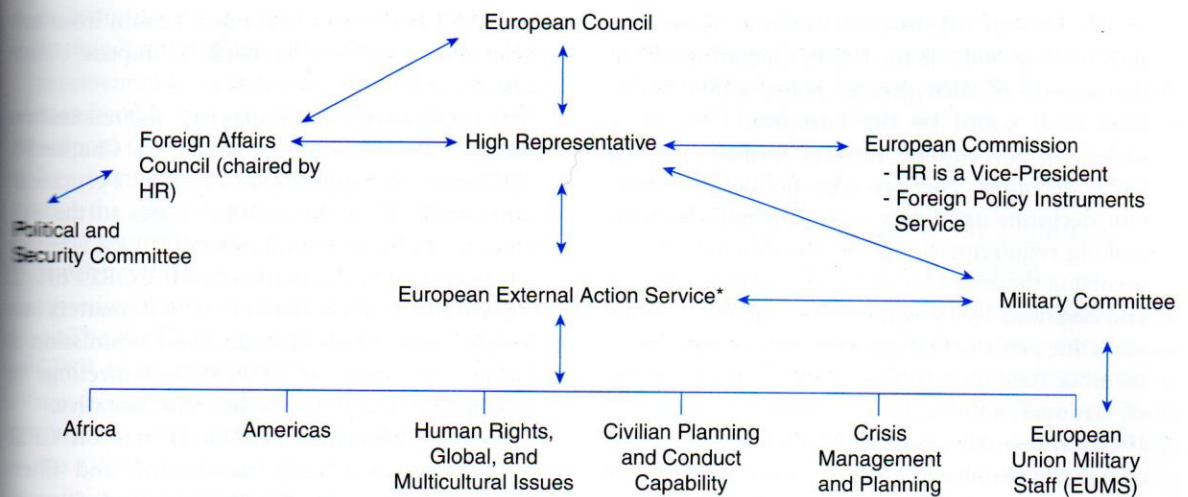
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* The EEAS has a complex hierarchy and internal structure. Only a few of its organisational units are indicated here.

Figure 22.1 Principal features of CFSP and CSDP decision-making structures

and security policy, including for matters with defence implications.

Working through and with the Foreign Affairs Council and the High Representative, the European Council is thus responsible for the overall direction of the CFSP. In practice, how closely the European Council becomes involved in this depends in large part on the interests and priorities of its President and his relations with the President of the Commission and the High Representative. The first President, Herman Van Rompuy, did not become much involved, partly because he was largely preoccupied with the eurozone crisis. His successor, Donald Tusk, has seemingly been a more active participant.

In addition to laying down guiding principles, the European Council also commonly pronounces on, and if necessary decides on actions in relation to, important foreign policy issues of current concern. So, for example, amongst issues considered at meetings in 2015 and 2016 were Syria, Libya, Russia/Ukraine, and the European Neighbourhood Policy.

The Council

The Council is at the very heart of CFSP processes. Most of its work is channelled via a tiered structure of

meetings which bring together representatives of the member states. In 'descending' hierarchical order, the nature of the tiered structure is as follows:

- *The Foreign Affairs Council.* Prior to the Lisbon Treaty coming into effect, Foreign Ministers met in the General Affairs and External Relations Council (GAERC). However, as part of the Treaty's attempt to strengthen the CFSP's institutional base, a separate Foreign Affairs Council was created. It meets about once a month, with Defence Ministers also attending when appropriate and with additional meetings being convened when necessary. In addition to formal Council meetings, informal weekend gatherings are periodically held.

This formation of the Council also covers CCP (trade) issues. Agendas are therefore organised in such a way that CFSP and CCP items are kept separate as far as possible, so that foreign ministers do not (normally) have to deal with CCP agenda items and trade ministers do not have to handle CFSP items.

The Foreign Affairs Council is chaired by the High Representative except for trade issues where, like other formations of the Council, the chair is taken on a rotating basis by the member state holding the Council Presidency.

The Foreign Affairs Council is the main decision-making body of the CFSP. Operating within the context of such general policy guidelines as have been issued by the European Council, it makes, or for routine matters formalises, most CFSP decisions. For new and politically important decisions unanimity is the 'default' decision-making requirement, but for operational matters involving the adoption of Union positions, actions and decisions QMV is normally available, though with the proviso that no vote can be taken if a member state objects 'for vital and stated reasons of national policy'. In such circumstances, the High Representative searches for a solution acceptable to the member state and if this is not possible the matter may be referred by the Council, acting by QMV, to the European Council for a decision by unanimity. Another option for a state that is uneasy about a proposed decision is to abstain and to accompany its abstention with a formal declaration. If it does this, it is not obliged to apply the decision, though it must accept that the decision

commits the Union and it must 'refrain from any action that might conflict with or impede Union action'.

- *The Committee of Permanent Representatives (COREPER).* As was explained in Chapter 10, COREPER is composed of the Permanent Representatives of the member states to the EU. It meets in two formations – COREPER I (Deputy Permanent Representatives and COREPER II (Permanent Representatives). CFSP matters are dealt with by COREPER II. The Commission is usually represented at COREPER II meetings by the High Representative or her representative.
- *The Political and Security Committee (PSC, which is often referred to by its French acronym of COPS – for *Comité Politique et Sécurité*) was created*

Meeting weekly, COREPER II acts on CFSP matters primarily as a transmission and filtering agency between the Political and Security Committee on the one hand (whose decisions it can discuss, but not change) and the Foreign Affairs Council on the other.

Photo 22.1 A meeting of the Foreign Affairs Council, 16 November 2015



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- *Working groups.* The so working groups in permanent but a few between 250 and 300 held each year. The gr diplomats – often dep member states, plus groups deal with regio East, Central and Sou

in 2000/01 as part of new structural arrangements to handle the ESDP. The PSC is chaired by a representative of the High Representative and its membership consists of officials at 'senior/ambassadorial level' from the member states' Permanent Representations to the EU in Brussels. From time to time the PSC meets at the level of Political Directors (who are very senior officials based in national Foreign Ministries) – though the Directors gather periodically on an informal basis in any event.

The PSC is in many ways the 'lynch-pin' of the CFSP. It meets normally twice a week to exercise a number of key responsibilities, including keeping track of the international situation as it concerns the CFSP, assisting with the definition of CFSP policies, providing political direction on the development of military capabilities and on dealing with crisis situations, and monitoring the implementation of agreed policies.

The PSC has been involved in some mild institutional rivalry with COREPER, with both bodies displaying a willingness to assert themselves. Turf battles have, however, always been contained, on the basis of the PSC recognising that its communications with the ministers must be channelled via COREPER and COREPER accepting that it does not interfere too much with the PSC's decisions.

The PSC is supported by a number of specialised committees and groups, including:

- *The Correspondents' Group.* Composed of those officials who are responsible for the coordination of CFSP inside Foreign Ministries, and with the EEAS in attendance, the Correspondents' Group meets at least once a month. As well as acting as a key liaising mechanism between Foreign Ministries, it regularly deals with business coming up from the working groups with which the PSC does not have the time or the inclination to deal. Correspondents are responsible for much of the day-to-day liaison between the Foreign Ministries of the member states.
- *Working groups.* There are usually around 30 or so working groups in existence, most of which are permanent but a few of which are *ad hoc*. A total of between 250 and 300 working group meetings are held each year. The groups are composed of senior diplomats – often departmental heads – from the member states, plus the EEAS. Some working groups deal with regions, for example the Middle East, Central and South America, and South-East

Asia; some deal with themes, for example, disarmament, and human rights; and some deal with operational matters, for example EU representations in third countries and the performances of CSDP missions.

The High Representative of the Union for Foreign Affairs and Security Policy

The Amsterdam Treaty created a new position of High Representative for the CFSP. The position was created partly for the purpose of raising the profile of EU foreign policy by giving it a human face and partly to strengthen the capacity of the EU to achieve cooperation between the member states on foreign policy matters. So as to ensure that the post would command respect and be high profile, Javier Solana, the Secretary General of NATO, was appointed to be the first (and, as it turned out, the only) occupant of the position.

However, although Solana was quickly seen to be doing a good job, institutional limitations of his post soon became apparent. Three limitations were especially important. First, the Commission continued to have an External Relations Commissioner, which inevitably resulted in uncertainties regarding the leadership positions and the responsibilities of the Commissioner and the High Representative. Second, the GAERC continued to be chaired by the Foreign Minister of the state holding the Council Presidency, which further compounded leadership and responsibility questions. Third, the High Representative had no significant independent powers: he was very much the servant of the national Heads of Government (in the European Council) and the national Foreign Ministers (in the GAERC).

In an attempt to tackle these problems, the governments of the member states included in the Constitutional Treaty what amounted to a merging of the posts of High Representative and Commissioner for External Relations into a single post, which they titled Union Minister for Foreign Affairs. Designed to give CFSP a more visible 'human face', this new post was retained in the Lisbon Treaty but, for reasons that were explained in Chapter 7, the symbolically charged title – which in popular parlance was quickly shortened to EU Foreign Minister – was dropped and replaced with the more cumbersome title of High Representative of the Union for Foreign Affairs and Security Policy.

The High Representative's institutional position is complex, with the incumbent having a base in the Commission, the Council and the EEAS: she is a member and a Vice-President of the College of Commissioners and is, in effect, the Commissioner for External Relations (and, as such, chairs the group of external relations Commissioners – see Chapter 9); she chairs the Foreign Affairs Council, other than when trade items are on the agenda; and she is the head of the EEAS.

This complex position is paralleled by an almost comparably complex appointment process. The European Council initiates proceedings by making a nomination, by QMV if necessary, with the agreement of the President-designate of the Commission. However, because the High Representative is also a Commissioner, the nomination is only confirmed when the whole College is approved by the EP: which only occurs after all Commissioners-designate, including the High Representative, have given satisfactory accounts of themselves before EP committee 'hearings'. Two High Representatives have been

appointed to date: the first, in 2009, was the UK Trade Commissioner, Catherine Ashton; the second, in 2014, was the Italian Foreign Minister, Federica Mogherini.

Regarding the powers of the High Representative, the Lisbon Treaty did not advance these much beyond the powers of the High Representative position that Solana had held. The relevant articles of the TEU are studded with phrases such as: 'The common and security policy shall be put into effect by the High Representative of the Union for Foreign Affairs and Security Policy and by Member States, in accordance with the Treaties' (Article 24); 'The Council and the High Representative of the Union for Foreign Affairs and Security Policy shall ensure the unity, consistency and effectiveness of action by the Union (Article 26); and 'the High Representative of the Union for Foreign Affairs and Security Policy ... shall contribute through his proposals towards the preparation of the common foreign and security policy and shall ensure implementation of the decisions adopted by the European Council and the Council' (Article 27). But, the TEU also makes for potential problems and uncertainties

Photo 22.2 The second High Representative of the Union for Foreign Affairs and Security Policy: Federica Mogherini



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with its inclusion in Article 15 – which covers the responsibilities and powers of the European Council President – of the following sentence:

The President of the European Council shall, at his level and in that capacity, ensure the external representation of the Union on issues concerning its common foreign and security policy, without prejudice to the powers of High Representative of the Union for Foreign Affairs and Security Policy.

So, the High Representative's roles are established in the TEU as being ones of proposer, promoter, facilitator and implementer, but in practice much depends on the role perceptions of the European Council President. What, however, is clear is that neither the European Council President nor the High Representative are major independent decision-makers: the making of key policy decisions is left to the European Council and the Council.

The difficulties entailed in exercising the High Representative's multiple roles are seen in the many criticisms to which Ashton was subject for not attending enough College meetings, for not being sufficiently briefed when chairing Council meetings, for not being sufficiently involved with the EEAS (which was being created on her watch), and for not being sufficiently visibly present when emergency situations requiring EU aid occurred. Under Mogherini, with the EEAS established and with routines and expectations more firmly in place, such criticisms have been less frequently heard.

One of the most frequently heard criticisms of Ashton was that she was 'more Council than Commission'. Mogherini is more firmly placed between the two institutions. A reason for this is that she has been pushed by Juncker who, concerned that the Commission's external powers should not decline, insisted at the time of her appointment that she physically base herself alongside the other Commissioners in the Berlaymont Building and that she chair the newly established Commissioners' group responsible for coordinating EU external relations (see Chapter 9).

European External Action Service

The CFSP/CSDP used to be administratively supported by the Commission's DG for External Relations and by a number of organisational units within the Council's Secretariat. However, the Lisbon Treaty

made new arrangements by providing for the creation of a new European External Action Service. The EEAS was duly launched in January 2011.

The EEAS is the EU's diplomatic service. As such, it has a responsibility for the coordination of all of the EU's external policies. However, it does not directly handle all of the external policies itself, for many of these remain housed in the Commission. So, for example, as was noted above, trade is mainly managed by the Commission's DG Trade, whilst other policy areas that are largely managed by Commission DGs include development policy, humanitarian aid, European neighbourhood policy and enlargement negotiations, and energy policy. Very close working relations between the EEAS and the Commission are thus vital.

The policy work of the EEAS is undertaken mainly at its headquarters in Brussels, where over 1,500 of the 3,900 or so employees of the EEAS are based. Operational work is undertaken by the delegations and offices the EEAS is responsible for running throughout the world (see below).

The EEAS is structurally and financially independent of the Commission and the Council, although, as noted above, its head – the High Representative – has a foot in both camps. Moreover, most of its staff have strong Commission and/or Council links, with most of them having been recruited either from the Commission and the Council or from national diplomatic services.

CSDP bodies

As was explained above, CSDP processes are being incorporated into the description here of CFSP processes because they are in most respects one and the same. However, in one important respect they are different because they have two preparatory bodies that are exclusively concerned with the CSDP. These bodies – which along with the PSC were each created by a Council decision in January 2001 (see *Official Journal*, 44: L27, 30 January 2001) – are:

- *The European Union Military Committee (EUMC)* is composed of the Chiefs of Defence, represented by their military delegates except in circumstances which require the Chiefs themselves to meet. The functions of the EUMC include providing military advice and making recommendations to the PSC

and the High Representative, acting as the forum for military consultation and cooperation between the member states in the field of conflict prevention and crisis management, and undertaking various evaluative and advisory tasks in crisis management situations. The Committee normally meets weekly.

- *The Military Staff of the European Union (EUMS)* consists of military personnel seconded from the member states. The staff are part of the EEAS and, working under the direction of the EUMC, they provide military expertise and support for the CSDP, including on intelligence, situation assessments and strategic planning.

The Commission

Since the 1981 London Report the Commission has been 'fully associated' with the work carried out in the foreign policy field. However, the intergovernmental nature and treaty base of foreign policy has meant that the Commission's position has always been much weaker in the foreign policy context than it has in respect of external trade policy.

The post-Lisbon Treaty arrangements, with their creation of the High Representative and the EEAS, have partly weakened the Commission's institutional position in respect of foreign policy. But, nonetheless in a number of ways it continues to exercise significant powers. One of these ways is via the High Representative who, as was shown above, is a leading member of the Commission and who, in that capacity, is charged with the coordination of all EU external policies. Another way is through the strong position the Commission

retains when CFSP actions involve the use of policy instruments that are managed by the Commission – such as trade, aid, and economic sanctions. For then, the Council can only act on the basis of Commission proposals. And a third way is when the Council is reliant on it for specialised information and advice.

The European Parliament

The European Parliament's roles and powers in relation to the CFSP are set in Article 36 of the post-Lisbon Treaty TEU, which is reproduced in Document 22.5.

What the Article 36 provisions amount to in practice is that unless special circumstances apply – as, for example, when a foreign policy issue is linked to an association or cooperation agreement and the consent procedure thus needs to be used – the EP is largely confined to advisory, monitoring, and holding-to-account roles on foreign policy.

Of course, these roles are not unimportant, but they are not policy- or decision-making roles. The nearest the EP comes to having a role in CFSP decision-making is during the budgetary procedure when the EP has the opportunity to raise foreign policy issues. It can do this because all CFSP administrative and operational expenditure is charged to the EU budget, except for operations with military and defence implications and cases where the Council acting unanimously decides otherwise.

Delegations and missions

The development since the Second World War of rapid international travel and instantaneous electronic

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Article 36 TEU (setting out the EP's CFSP roles and powers)

The High Representative of the Union for Foreign Affairs and Security Policy Presidency shall regularly consult the European Parliament on the main aspects and the basic choices of the common foreign and security policy and the common security and defence policy and inform it of how those policies evolve. He shall ensure that the views of the European Parliament are duly taken into consideration. Special representatives may be involved in briefing the European Parliament.

The European Parliament may ask questions of the Council or make recommendations to it and to the High Representative. Twice a year it shall hold a debate on progress in implementing the common foreign and security policy.

communications has undermined much of the role and value of diplomatic representations as a means for countries to communicate with one another. Nonetheless, embassies, delegations and missions are still used to promote and defend interests abroad.

Because it is not a state the EU is not able to maintain overseas embassies, but it does have an extensive network of external delegations: over 140 in third countries and five delegations to international organisations. (It might be added here – and this exemplifies the importance of the EU to the outside world – that over 170 countries have diplomatic missions officially credited to the EU.) Prior to the entry into force of the Lisbon Treaty, these external delegations were delegations of the Commission, but the Treaty's granting of legal status to the EU enabled them to become EU delegations. They now operate within the framework of the EEAS.

Overseas representations are, of course, concerned with many issues other than foreign policy – most notably, the promotion of trade and, in the case of national representations, the safeguarding of citizens' interests. The CFSP is, however, a matter that both embassies of the member states and EU delegations seek to promote. In this context Article 35 TEU states that:

The diplomatic and consular missions of the Member States and the Union delegations in third countries and international conferences, and their representations to international organisations, shall cooperate in ensuring that decisions defining Union positions and joint actions pursuant to [the CFSP] are complied with and implemented.

Article 35 underpins the development of processes that have been long underway, whereby embassies of EU member states in third countries and delegations attached to international organisations exchange information and coordinate activities. For example, member state ambassadors to the UN meet weekly to coordinate policy, and member states' voting cohesion averages over 90 per cent in the General Assembly (Jin and Hosli, 2013).

Development Policy

The EU and its member states are major actors in international development policy. This is no more

clearly demonstrated than in the fact that the EU's member states provide around 45 per cent of all international development aid, whilst the EU itself provides another 10 per cent. In the related area of international humanitarian aid, the EU's member states provide around 25 per cent of the total and the EU provides around 30 per cent.

The reasons for the EU's active engagement in development policy are a mixture of the historical, the moral, and the economic: historical in that some EU countries, notably France and the UK, have long-established ties with parts of the developing world as a result of their colonial past; moral in that EU governments believe, although with different degrees of enthusiasm, that something should be done about world poverty and hunger; and economic in that developing countries account for around 30 per cent of EU exports, and the EU is highly dependent on the developing world for products such as rubber, copper and uranium.

Policy content

EU development policy has 'as its primary objective the reduction and, in the long term, the eradication of poverty' (Article 208 TFEU). The achievement of this objective has always been at the heart of EU development policy strategies and policies, as numerous communications, documents and declarations that have been issued over the years show. For example, a major strategy paper – *The European Consensus on Development* – that was adopted in 2005 in a joint statement agreed by the Council, the representatives of the governments of the member states meeting within the Council, the European Parliament and the Commission declared:

The primary and overarching objective of EU development cooperation is the eradication of poverty in the context of sustainable development, including pursuit of the Millennium Development Goals (MDGs).

The eight MDGs are to: eradicate extreme poverty and hunger; achieve universal primary education; promote gender equality and empower women; reduce the mortality rate of children; improve maternal health; combat HIV/AIDS, malaria and other diseases; ensure environmental

stimulating enterprise in the ACP states being given much attention.

- Political cooperation and conditionality have been stepped up, with greater emphasis being given to strengthening democratic processes, good governance, respect for human rights, and civil society in the ACP states.

Development aid is financed in two ways. First, non-EDF aid is funded by the EU budget. Accounting for around 4 per cent of the budget, about half of this aid is used to provide financial assistance to non-ACP countries and about half is used for food aid purposes. Second, EDF aid, which accounts for about 30 per cent of total EU spending on development cooperation, is funded by special contributions from the member states. The eleventh EDF covers the years 2014–20 and totals nearly €32 billion (at 2016 prices). Taking EDF and non-EDF aid together, the principal beneficiaries are sub-Saharan Africa (which receives almost 60 per cent), southern Asia (about 10 per cent), and Latin America and the Caribbean (also about 10 per cent).

It should be stressed that EU development policy is conducted alongside national policies. Unlike with trade policy, the EU does not have exclusive competence in the area of development policy. In some aspects of development policy the EU takes the leading role whilst in others the member states are the main players and the EU is confined to, at most, supplementing, complementing and coordinating national development policies. So, the trade aspects of development policy are necessarily the EU's responsibility, but the states are much more prominent in respect of financial assistance.

Strains have sometimes arisen between member states and between member states and EU institutions (especially the Commission) regarding development policies. This has been largely because there are differences between member states regarding their aims, priorities, and interests on development policy issues. As commercial pressures have come to increasingly impinge on aspects of development policy, so have such strains tended to increase. Particular problems have arisen when states have sought to use trade and aid for the purpose of promoting national political and economic interests.

In consequence, in an attempt to ensure the policies and activities of the EU and its member states match, much emphasis has been placed in recent

years on promoting greater cooperation, consistency, coherence and complementarity between EU and member state policy activities.

Policy processes

The EU makes all sorts of decisions in connection with its development policy. Just as in other policy areas, the actors involved and the procedures that apply vary enormously.

With regard to the actors, the most important players are: the Foreign Affairs Council (Development Ministers attend the Foreign Affairs Council when agenda items concern them); the Commissioner for Development; the Development DG; the EP Committee on Development; the diplomatic missions of developing countries in Brussels that are accredited to the EU (which undertake a variety of liaising and information-providing functions); and the EU delegations in developing countries (which, amongst a wide range of functions, have management responsibilities for development aid projects).

With regard to decision-making procedures, these are dependent on the type of decision envisaged. For example, if the Council is intending to issue a declaration or a resolution on a matter, it consults the EP but does not need its approval and can move at its own pace – which may mean proceeding very cautiously and only after lengthy deliberations on proposals from the Commission and/or from a specially convened Council *ad hoc* working party. If a trade-only agreement is envisaged, Article 207 applies – which, as was noted earlier in the chapter, means that the Commission and the Council are the key actors, QMV can be used in the Council, and the EP has the power of consent. If cooperation or association agreements are proposed, QMV is available in the Council for most cooperation agreements, there must be unanimity for association agreements, and the EP again has the power of consent.

As was shown above, the Cotonou Agreement is the most important of the numerous agreements to which the EU is a party in connection with its policy on development cooperation. It is therefore worth saying a little about how it functions, for the Agreement has its own institutional structure, which is largely the structure passed down from the Lomé Convention. There are three principal bodies in the structure. The

first is the Council of Ministers, which is composed of the members of the Council of the EU, a member of the Commission, and a member of the government of each ACP country. The Council meets at least once a year to take whatever major political and policy decisions are necessary under the Agreement. Decisions are taken by 'common agreement'. If there is a dispute between the 'two sides' binding arbitration applies. The second body is the Committee of Ambassadors, which is composed of a representative of each EU state, a representative of the Commission, and a representative of each ACP state. The Committee meets at least twice a year and is charged with assisting and advising the Council of Ministers, monitoring the implementation of the Agreement and the progress towards its objectives, and generally supervising and coordinating the work of the many committees and subsidiary bodies that exist under the general umbrella of the Agreement. Finally, there is the joint Assembly, which is made up of equal numbers of MEPs and ACP members of parliament or national representatives. It meets twice a year and acts as a general advisory and deliberating body.

The External Dimension of Internal Policies

Many of the EU's internal policies have significant external dimensions. For example, transport policy involves dealing with neighbouring countries on road transit arrangements and with countries throughout the world on numerous air and maritime transport issues. Energy policy includes dealing with countries that are suppliers of energy to the EU about rights, guarantees, and terms of access. And environmental policy includes dealing with countries near and far on such issues as climate change and many aspects of air, land, and water damage and pollution.

Prior to the Lisbon Treaty, the EU did not have explicit treaty powers to act as the external representative of the member states in such policy areas. However, the ECJ had established that the EU did have implied external powers in respect of policy areas falling within its internal jurisdiction. Just how extensive these implied powers were, and in what circumstances they applied, was frequently contested, but the

key principle of 'parallelism' was firmly established, by which the exercise of internal law-making powers by the EU in a particular policy area was taken to imply that it also had the power to negotiate and conclude international agreements in that area. This principle was acknowledged in a new Article 216 that was incorporated in the TFEU by the Lisbon Treaty:

The Union may conclude an agreement with one or more third countries or international organisations where the Treaties so provide or where the conclusion of an agreement is necessary in order to achieve, within the framework of the Union's policies, one of the objectives referred to in the Treaties, or is provided for in a legally binding Union act or is likely to affect common rules or alter their scope.

The procedural arrangements by which the EU contracts external agreements on internal policy issues are set out in Article 218 of the TFEU. Different procedures apply depending on the nature of the agreement concerned. A relatively straightforward agreement with no major institutional or budgetary implications is subject to much the same procedure as applies to trade agreements under Article 207. In contrast, agreements that are constituent elements of more wide-ranging cooperation or association agreements are subject to more demanding requirements – including, in some cases, the necessity of unanimity in the Council.

Another complication is that the EU does not necessarily have the exclusive right to negotiate external agreements on internal policies. Rather, there are many mixed competences where policy responsibilities are shared between the EU and the member states. This results in there being two main ways, with variations within each, as to how the EU is represented and conducts itself in international negotiations in such policy areas. On the one hand, where there is exclusive EU competence, as with fisheries, the Commission is the sole EU representative and negotiator. On the other hand, where there is a mixed competence, as with environmental policy, the Commission acts on behalf of the EU but, where no common EU position has been internally agreed, national representatives may act on behalf of their member states.

The distribution of competences is highly complex in some policy areas, with overlapping competences making it difficult for the EU fully to coordinate its

inputs in international negotiations. This can naturally weaken the effectiveness of the weak EU. In the environment (Chapter 20), a major EU is, notwithstanding an influential voice in multilateral environmental agreements on the transboundary movement of their disposal, desert the marine environmental policy areas biological diversity – the EU as virtually a

A key reason why significant external policy areas is that it is usual with third parties. Even disputes, accommodation goals, and who is to usually agreed before. Furthermore, during negotiations EU 'coordination' and when they are decided

The Consistent Representation Problems

The coordination of EU policy is increasingly necessary in a multidimensional world. The numerous cooperation agreements that the EU has concluded typically include a battle for development, and democratic measures, plus provision

As can be seen in the opening paragraph of Article 11, the importance of the EU in the different areas of its policy consistency is not achieved. Policies is undermined and the effectiveness is reduced.

as firmly established by law-making powers in this area was taken to imply that the Commission should negotiate and conclude agreements in that area. This principle is enshrined in Article 216 that was introduced by the Lisbon Treaty:

...agreement with one or more international organisations or with one or more States, where the Commission considers it necessary in order to achieve the objectives of the Union's external policy, referred to in the Treaty, by a legally binding agreement or by common rules or

by which the EU coordinates its external policy issues and actions. Different procedures of the agreement towards agreement with no implications is subject to the same rules that applies to trade agreements. In contrast, agreements that involve wide-ranging cooperation are subject to more stringent rules, including, in some cases, the involvement of the Council.

...the EU does not need to negotiate external relations. Rather, there are different policy responsibilities and the member states. In many ways, with varying degrees, the EU is represented and acts in negotiations in such a way that there is exclusive competence, the Commission is the negotiator. On the other hand, in areas of shared competence, as in the case of the Commission acts on behalf of the common EU position. The external representatives of the member states.

...is highly complex and overlapping competences make it difficult to coordinate its

inputs in international forums and negotiations. This can naturally weaken the EU's influence. But, the extent of the weakening should not be overstated. In the environmental policy sphere, for example, the EU is, notwithstanding having suffered setbacks (see Chapter 20), a major global player and is party to, and an influential voice within, more than 30 different multilateral environmental agreements – including agreements on the protection of the ozone layer, the transboundary movement of hazardous wastes and their disposal, desertification, and the protection of the marine environment. Indeed, in some environmental policy areas – including climate change and biological diversity – it is not going too far to describe the EU as virtually a global policy leader.

A key reason why the EU is often able to exert a significant external policy influence in internal policy areas is that it is usually well prepared for negotiations with third parties. Even when there have been internal disputes, accommodations – on competences, policy goals, and who is to take the negotiating 'lead' – are usually agreed before external negotiations begin. Furthermore, during the course of external negotiations EU 'coordination' meetings are normally held as and when they are deemed necessary.

The Consistency and Representational Problems

The coordination of EU external policies has become increasingly necessary as they have become increasingly multidimensional in character. For instance, the numerous cooperation and association agreements that the EU has concluded with third countries typically include a battery of, as appropriate, trade, development, and democracy-building/human rights measures, plus provisions for political dialogues.

As can be seen in Document 22.3, the concluding paragraph of Article 21 of the TEU emphasises the importance of the Union ensuring consistency in the different areas of its external relations. Clearly, if consistency is not achieved the efficiency of external policies is undermined and the EU's potential to exercise a significant and effective influence on the world's stages is reduced.

Similarly, the EU's 2016 global strategy document emphasises the importance of a consistent Union in external affairs: 'We must become more joined-up across our external policies, between Member States and EU institutions, and between the internal and external dimensions of our policies' (Mogherini, 2016: 11).

But, ensuring consistency – over time, between individual external relations policies, and between policies at the EU and the national levels – is a major problem. The lack of 'across the board' policy towards China and Russia exemplifies this, with some member states, especially large states, tending to leave much of the democracy/civil liberties dimension of relations to the EU and downplaying these in bilateral relations. As Box 22.7 shows, there are several overlapping and interrelating reasons why EU policy consistency is often difficult to achieve.

Procedures, mechanisms, and arrangements have, of course, long existed to try and maximise consistency. Crucial in this respect have been the convening, at different levels of seniority, of numerous intra- and inter-institutional meetings with the specific purpose

Box 22.7

Reasons why external policy consistency can be difficult for the EU

- The great spread of the EU external relations' interests and activities.
- The diversity of actors and processes that are involved in EU external relations policy processes.
- The differing powers of the EU in different policy contexts, with particular problems arising when competence is shared between the EU and the member states.
- The differing powers of EU actors in differing spheres of external relations.
- The conflicting orientations and preferences of the member states on many policy issues.
- The varying levels of EU policy development – from the CCP to the (still) emerging defence policy.

of ensuring external policies and activities are coordinated.

However, it was in large part so as to enable policy inconsistencies to be tackled more effectively at the highest level that the Lisbon Treaty created the position of High Representative. Under Catherine Ashton this appears to have had only limited effect, but under her successor, Federica Mogherini, and the simultaneous installation of Commissioners' Groups by Jean-Claude Juncker (see Chapter 9), high-level coordination has become much more institutionalised and systematic. So, the Commissioners' Group on External Action (CGEA), which Mogherini chairs, brings together all relevant Commissioners (usually with their Directors-General also in attendance) on an at least monthly basis. The CGEA is supported by a joint secretariat drawn from the Commission and the EEAS. CGEA meetings are preceded by meetings of relevant *cabinet*, DG, and EEAS officials. (On the CGEA, see Blockmans and Russack, 2015.)

The consistency problem is closely related to the EU's external representational problem that is encapsulated in the question first allegedly posed by the US Secretary of State, Henry Kissinger, in the early 1970s – who speaks for Europe? When the EU acts on the world stage the nature of its representation can vary considerably according to circumstances. Even after the 'streamlining' of the EU's external representation by the Lisbon Treaty, this situation partly continues. So, for example, in charged political situations the lead representation is likely to involve some combination of the European Council President, the President of the Commission, the High Representative, and quite possibly also the Head of Government or Foreign Minister from the Presidency-in-Office. In addition, some member states, especially larger member states, may also seek to act in an individual capacity. Where, by contrast, international monetary matters are under consideration, the representation is likely to involve some combination of the Finance Minister from the Presidency-in-Office, the Commission Vice-President for the Euro and Social Dialogue and/or the Commissioner for Economic and Financial Affairs (both of these seeking to represent the EU-28), the President of the European Central Bank, the President of the Eurogroup (both seeking to represent the eurozone), and national Finance Ministers and national Central Bank Governors (especially from the member states outside the eurozone).

Concluding Remarks

This chapter has demonstrated that the EU can be thought of as being a partially constructed international actor in that it has an 'ability to function actively and deliberately in relation to other actors in the international system' (Groenleer and Van Schaik, 2007: 972). However, this notwithstanding, it can be argued that the EU's international standing and influence have weakened in recent years. Certainly, for instance, the EU has become a less attractive model for other regions to emulate, as demonstrated by the declining interest of other regions in creating a common currency. There has been an apparent decline in the EU's transforming normative power, with its attempts to democratise and politically liberalise the Balkans and North Africa making only limited headway. And the EU has been largely confined to the sidelines in respect of dealing with such pressing problems as the collapse of the Arab Spring, the horrors of the Syrian civil war, and the increasing international assertiveness of Russia (see Webber, 2016 on this 'decline thesis').

Nonetheless, it has been suggested in the chapter that although the EU may exercise only a modest influence on the world stage in respect of its foreign and defence policies, it exercises a major influence in respect of trade policy and a significant influence in respect of development, environment and certain other policies. In short, the EU has significant external policy outputs and corresponding significant impacts on non-member state international actors and international issue areas.

To enable it to exercise influence, the EU uses a range of modes of governance. At one end of the spectrum, the dominant mode in the area of trade involves the empowerment of EU institutions, including of the supranational institutions. At the other end, the dominant mode in the area of foreign and security policy involves horizontal intergovernmental cooperation, with only very limited powers being given to EU institutions. (On modes of governance in the conduct of EU external relations, see Dominguez, 2016.)

A central question that is likely to loom large in the future is whether the EU will advance from being a modest player to becoming a major player in the foreign and defence policy fields. Considerable doubt must exist about this, for though mechanisms to enable it to do so have been strengthened over the years,

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But the development of a greater institutional capacity will not in itself be enough to enable the CFSP and the related CSDP to deepen. The political will to use and take advantage of the capacity is also required. For reasons that have been outlined in this chapter, such political will is not always forthcoming. To cite just one example of an area where a stronger collective political will is required, it is accepted by virtually all informed observers that defence expenditure in the EU is not used to maximum effect. Amongst the problems are: too many operating systems and forms of hardware that are not inter-operable; too many duplications; and in a world where the nature of security threats has changed dramatically in recent years, too many states are spending too much on personnel and not enough on research and sophisticated

But, it should not be assumed that all political will is lacking and that further integrationist advances cannot be made in the CFSP and CSDP spheres. There may be major obstacles in the way, but much of what used to be seen as almost insurmountable barriers have been removed in recent years. For example: the special relationships that some EU countries have with particular parts of the world have become less problematical as historical ties have been loosened; the difficulties created by the quasi-neutrality of some member states have largely been overcome since the end of the Cold War; and, for a host of reasons, EU member states – including those that have been most concerned about the preservation of national sovereignty – have increasingly come to regard both foreign and defence policy issues as proper and legitimate matters for the EU agenda.