The Unfinished Beginning of CFSP

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must say, from the beginning, that this Lstudy has, first of all, a methodological meaning, in order to define an "Ariadne's thread" this genuine political in diplomatic puzzle for the first two "post-Cold War" years in the reshaping of the European foreign and security dimension. unfinished beginning like the "elusive"1 concept, used for the first time by the professor Simon Duke, shows very well the "difficulty" of this process of which the result. called CFSP, must be seen as the "common denominator" of the interests' interaction between member states, Community institutions and NATO non-European allies, in a new geo-strategic climate.

In the decision-making bodies of the Western Europe. the psychological environment at the end of the '80s was full of optimism. On the one side, the internal -"common" market had become a reality, with the monetary and economical union, which had been for so long a far away objective, in the position to be negotiated; secondly, the communism collapse had brought democratic governments in the Central and Eastern Europe.

The Western Europe institutional formula was perceived as embedded in a story of success; the Twelve will soon become the main source of help and inspiration that would permit to the excommunist countries to step forward the hard path of transition to democracy, law supremacy, and free trade economy². This general optimism was not exempt from hard questions: Will they handle the reunification of Germany and also the new political

situation in Eastern Europe? Which are the amendments to the institutional framework of the European Community (EC) in order to become a super power (a European one)? Which are the new powers for accounting the new regional or global responsibilities?

The president of the European Commission, Mr. Jacques Delors. already underlined in an October 1989 speech in Bruges, at the College of Europe, the imperative of the European Community involvement would have to be especially the "deepening" in importance in the international affairs³. And Mr. Delors was not the only high-ranking official to consider that the European Political Cooperation (EPC) in spite of its positive twenty years record was not capable to confront the challenges of the '90s4. The defections between EPC and European Community were very well known; exempli gratia the European foreign ministers gathered in an EPC Summit in New York will decide to impose commercial embargo to Haiti, and only few weeks later to reject it, in a General Affairs Council, in Brussels, by deciding that this measure was against the GATT and Lomé Agreements⁵.

Over the years, the logical internal evolution of the EPC was set out by a lot of pressure and foreign events that deterred the conjunction of the Community and EPC interests. At the moment when based on the Delors Report, EC was at the beginning of the negotiations on the economic and monetary union (EMU – meaning a common monetary policy and a single currency) not few will be to say that it would be an equal

must the reassertion of Europe's political structure. The national currency, its foreign policy and security were always the essential goals of state sovereignty. Now, that one of these pillars could be made in common, what is about the rest of it? The German federal government was not the only one to say that the EMU should find its correspondent in the political dimension⁶.

In this context, the Belgian government was publicizing on March 21, 1990 a memorandum in which required the reform of EC institutions⁷. The document had a lot of propositions that were to be discussed at the Inter-governmental Conference (IGC) in order to debate the problems of the EMU, or in a similar conference. Because of the new "look" of the Central and Eastern Europe, it was underlined that in "international relations, a common foreign policy is more than necessary" and also, that "EC should participate as a political entity". The General Affairs Council, as the engine of the decision-making process, was called to elaborate a common framework for EC, EPC and member states governments' actions.

At the end of the memorandum they expressed the wish that in the nearer future "should be possible to discuss, without restriction, questions concerning security in the broadest sense".

I have not mentioned by chance this document, because the ideas of this memorandum have to be found in the Treaty of Maastricht two years later.

Having a great support by the Dutch, Italian and Spanish government and also a favourable comment from the French president François Mitterrand, the Belgian memorandum appeared in a very good moment for the European Council convoked by the Irish presidency, on April 28, 1990 in Dublin, in order to discuss the German reunification issue and the relations between the states of EC and the rest of the continent.

A few days before the meeting of the European Council, the German chancellor Helmut Kohl and the French president Mitterrand addressed, on April 18, a joint letter to the Irish presidency in which they underlined the imperative of the political

reconstruction acceleration in the Europe of the *Twelve*.

The letter's main proposals can be summarized thus:

- The foreign and security common policy defining and implementation;
- The convoking of an IGC on this issue, at the same time with a conference about the EMU:
- The entry into force of a political, as well as economic and monetary, union starting with January 1, 1993⁸.

The Presidency Conclusions9, at the ending of the Dublin European Council. focused on the two documents (the Belgian memorandum and the Mitterrand - Kohl joint letter), as essential points for the future discussions. Nevertheless, Great Britain's traditional euro-scepticism will cause the moderation of the European Council, which will ask the foreign ministers to get a "great consideration" to the next amendments regarding the treaty. The prudence of this first phase does not exclude the long-term ambitions, and the Conclusions reaffirmed willing and determination European Council to make the political union to work, reaffirming also the support for a "dynamic evolution" of EC.

After two months, the (ordinary) Dublin European Council (June 25-26, 1990) will decide an Inter-governmental conference on the political issue, on December 14, 1990, at the same time with the one about the EMU. The General Affairs Council was responsible for the coordination of the activities of the two conferences.

In the following period, it will be obvious that the major preoccupation of the ones that negotiated the political union was not public opinion agreement. The fearing was about the substance, the contents of the new concepts – foreign policy and common security, European citizenship or subsidiary –, mentioned in *The Conclusions* of the Dublin European Council¹⁰, but undeveloped by any participants.¹¹

The second half of 1990 will be dedicated to the clarifications of these concepts, the half-yearly presidency been given to Italy. The next months until the

starting point of the Inter-governmental conference on December 14, 1990 will be characterized by the important contributions for the next Title V of the Treaty of Maastricht. These contributions will come from the member states (Greece, Spain, the Netherlands), EC's bodies¹², and also from the Italian presidency.

In this respect, it should be remembered the contribution of the Italian foreign minister, Mr. Gianni de Michelis, the one who promoted the idea to include all the aspects about the security issue in CFSP, and the transfer of WEU's competence to the future European Union.

All this state of mind conducted to the Communiqué adopted by the Rome European Council, in December 14-15, 1990, and through which the lines were drawn to the IGC:

- Primo it should show the general consensus; also the European Commission and the member states have agreed the objectives mentioned in the Kohl Mitterrand joint letter; the European Parliament underlined that a foreign policy in order to cover the peace and security problem had to be an essential goal of the projected political union¹³.
- □ Secundo it was clear that the new common policy would have a certain area of application; the opinion of the European Commission signalized the fact that the main issue was a common policy not a unique one; so, they introduced the concept of vital common interests¹⁴, which were interpreted by some analysts as a transposition of the subsidiarity principle to the foreign affairs field¹⁵.
- □ Tertio the progress should be gradual, in accordance with the political cooperation rules. So, the Presidency Conclusions¹⁶, the synthesis-document of the Rome European Council, speaks about "a continuous evolutionary process".
- Not at least, they showed the necessity of a deeper coherence to solve foreign and security problems; accordingly, they accepted the idea of a single decisional centre, a common secretariat, a single

COREPER with a bigger role, initiative rights for the European Commission to consult and inform the European Parliament, the split responsibilities between the daily Presidency of EC and the European Commission, concerning foreign representation.

In this preliminary negotiation phase, two foreign events will come indirectly to help the Italian presidency: first, the invasion of Kuwait by the Iraqi dictator Saddam Hussein, in August, 1990, which led to discussions about the military role of the Europe, as a community, in order to manage similar crisis that could appear in the neighbourhood; than, the internal crises of the Tory Party – the Leading party in Great Britain – after the replacement of Mrs. Margaret Thatcher with John Major, a Prime Minister less "euro-sceptic" 17.

At the end of the Italian presidency, a less discussed problem remained to be approached: Which should the essential difference, the major progress in order to mark the change from EPC to CFSP be?

On December 6, 1990, a few days before the starting of the Rome European Council, the chancellor Kohl and the president Mitterrand sent a new letter to the (Italian) presidency of EC, a document with a series of principles that should lead the negotiations in order to create CFSP. The document was made in general terms, having a lot of unset aspects, so, in conclusion to the ideas enounced until now, the main issues of the negotiations in 1991 would be, as follows:

- Security Which is the meaning of the common security policy? Does this concept include the defence dimension? If the answer is yes, then in accordance with the conclusions of the European Commission of October 1990 should it provide mutual security guaranties, exempli gratia as in the article V of the WEU Treaty¹⁸?
- Common vital interests How will these interests be identified?¹⁹ Should a Community body (European Council, for example) give an official definition of the common vital interests phrase, counting any possible situation? How will this

glissando from the national level of the foreign policy and security to EC level be produced?

- The institutional structure How integrated should the frame of the future political union be? Is the fusion between EPC and the European Community' actions, or the maintenance of the intergovernmental structures needed for assuring the coherence of the decisional process? Can a common foreign and security policy be efficiently managed only through consensus or is it wanted that some decisions should be taken through qualified majority voting (QMV)? If yes, what are these situations?
- □ The graduality How to be reached? Quantitatively, through a gradual path of the solved problems by CFSP (based on a list, as the Asolo one)? Qualitatively, through the arrangements starting to a lower level of the common foreign action to the higher one? Temporarily, according to a settled calendar?

I have underlined at the beginning of this study the importance of the divergent interests interaction of the member states, and the negotiation duration under the IGC²⁰ auspices. Therefore, both in the security and defence issues (also in the interaction of WEU in EU and the reshaping of the US dialog with the European allies), and the problem about Union's structure (including the role of the Council, the Commission and the Parliament, and the QMV procedure also) will cause dissentions.

In the security matter, the "dual French-German e ngine" will define its position in a common document transmitted on February 9, 1991, and known as the Dumas -Genscher²¹ Initiative. This was about the development of an EC security system taking into consideration the inclusion of WEU into the unification procedures and its subordination to the European Council decisions. A main preoccupation was at the same time the reconsideration of the US susceptibility, by reaffirming the essential importance of NATO. This document will get the Belgium, Italy and Spain support who wanted to introduce some amendments about the defence and security problem into the community institutions' competence -

and not only at the European Council's level. Conversely, another important actor, Great Britain (the US natural ally in Europe)²², endorsed by the Netherlands and Portugal. will affirm that such a project is useless, and may ieopardize the NATO existence - the organization for collective defence which successfully assured, for almost 50 years, the protection of Western Europe against the communist threat; Sir Douglas Hurd, the secretary of the Foreign Office, answered very clear to his homologues Roland Dumas and Hans-Dietrich Genscher, on February 19, 1991: "The defence of Europe without the United States does not make any sense ... I do not believe that there is the case for including defence within the common foreign and security policy."23

Regarding the debate about the structure of the new EU, this comprised the same unsolved chapters of the Fouchet plan (1961), which divided the European political elite in two factions - the federalists and on the other side the supporters of a Europe inter-governmental deepened into an structure. The separation line can be drawn between the big states (supporters of the inter-governmental structure) and the smaller ones (very keen on deepening role of EC institutions, perceived as a better protection against the dominating tendencies of the powerful states); at the moment discussion about the role of the European Court of Justice in CFSP, the member states (with the exception of the Netherlands) will reject any powers be given to the Court. What is the explanation? Raison d'état, according to the modern diplomacy inventors.

An important moment for the Maastricht Treaty will be when the Luxemburg presidency presented its *non-paper* document²⁴ on April 12, 1991. It is important to highlight the following keyaspects:

A clear separation between the "European Economic Communities" (art. B.1) and the foreign policy and justice affairs (art. B.2); at the same time, the document of the Luxemburg presidency comprised all the aspects within one treaty, as components of a single Union²⁵.

- roles The distribution of for the Community bodies in foreign and Council, security affairs: European General Affairs Council. European Commission. European Parliament. COREPER, Political Committee, General Secretariat.
- Different procedures on cooperation (art. G, H, I) and for joint actions which will be gradually implemented in member states that have vital common interests (art. J and H); the majority voting, in this respect, was left at the Council's will (the type of majority been open to interpretation).
- The perspective of WEU involvement in the defence decision-making process; they took into consideration the possibility to reach these goals by 1996, the year of the next IGC, in order to create a common defence policy.

A new document (as a draft treaty)²⁶ will be released by the Luxemburg presidency on June 18, 1991, a few days before the European Council meeting. The major conceptual differences in the Community's foreign policy field were as follows:

- The pre-eminence of the Community in the structure of the future Union was clearly settled (art. A); the Community is the fundament for the Union, the other (common)²⁷ politics, including CFSP, having to play a complementary role.
- General regulations (art. C) of the draft treaty settled a single institutional framework for the Union.
- The art. B prescribed as a major objective of the future EU the definition of a foreign and common security policy, which in the long term should lead to a defence policy, issue that had not been approached in the April document.
- About the CFSP implementation, art. J.2 was (optionally) introducing the QMV. Once they voted a joint action, this would become compulsory for the member states²⁸ (art. K).
- A new inter-governmental conference was scheduled for 1996, in order to review some a spects a bout the security (art. L.5) and foreign policy (art. N) issues.

At the beginning, the Luxemburg draft treaty will get not a very good welcome in some member states. The Great Britain and Denmark, for instance, rejected the intended federal type of the future Union; the Belgium and the Netherlands criticized the structure based on pillars.

In another perspective, there were a lot of political figures that asked the same question – if a defence common policy could be effective without firm, mutual engagements - without a collective defence organization. Regarding this, the president of the European Commission, Mr. Jacques Delors, said: "(...) this common defence policy only makes sense if it expresses a double solidarity: unity in the analysis and action in the area of foreign policy and mutual engagement to assist a member state whose integrity is threatened."29

Even so, the merits of the Luxemburg presidency were not in vain, a fact confirmed by the *Conclusions*³⁰ of the Luxemburg European Council which considered its contribution as "the base for future negotiations". This issue had to be anyway finalized at the Maastricht European Council, in December 1991.

I was mentioning the discontent of the Dutch diplomacy regarding the substance of the Luxemburg draft treaty. Having the presidency of the EC in the 1991 second half, the Netherlands will seek – because of its foreign minister Hans van den Broek – to offer "a more orthodox and unitary draft treaty (without pillars!)"³¹. Consequently, the Dutch foreign ministry will elaborate in August 1991 a new draft treaty made public on September 23.

The "Treaty for a European Union"³² represented first of all the renouncement of the "pillars" structure. The common foreign and security policy became the chapter I of the part IV of the draft treaty, which referred – according to the *Opinion* of the European Commission of March 1991 – also to the commercial policy and the development aid. The regress beside the Luxemburg draft was obvious: the defence policy concept (the Dutch diplomacy did not show any interest in this matter) was ignored; meanwhile, the issues concerning QMV (in foreign policy decision), joint actions (mandatory), or

revision clauses – all these in the document of the Luxemburg diplomacy – were abandoned. The fundamental pulling over was the fact that the foreseen procedures for the common foreign policy (art B.1) were the same as the political cooperation³³, except the cases in which member states would decided unanimously to act differently (art. B.2).

The negative reaction from the capitals of the member states will come soon. France and G reat B ritain will t otally disapprove the Dutch presidency document; meanwhile Belgium, Germany and Italy will express deep reluctance. When on September 30, 1991, ten of the *Twelve* joints in The Hague will show clear preference for the Luxemburg draft treaty, the subject will be closed and the Dutch diplomacy standing will be seriously damaged³⁴.

This strange episode will end up with the Luxemburg draft treaty remaining as the only "competitive" one. Before the Maastricht European Council, there were still many aspects to clarify - for example the sensitive issue of security -, so, in this period many documents will appear: a reviewed but irrelevant revision of the Luxemburg draft treaty made by the Dutch diplomacy (on October 4), an Italian-British document on defence and another French-Germandocument (on October 11)35. Spanish Belgium, also, will elaborate on the decisionmaking process.

Regarding the new foreign policy and the common security dimension, the final debates will focus on the four essential documents:

Security — The Italian-British document proposed to create a new European Defence Identity, which in the long term should conduct to a common defence policy. In return, the French-German-Spanish Communiqué referred to the whole spectrum of security and defence, through common defence on the long run³⁶. The distinction between common defence policy and common defence was not only semantic; the NATO role had to be redefined and an answer had to be given to the question if the future Union would be a military alliance, too.

- WEU Should this collective defence organization remain equidistant to NATO and to the future EU, or should it be a part of the political European integration?
 - part of the political European integration? QMV The French-German-Spanish Communiqué was in favour of QMV in the field of common foreign and security policy; Belgium, Italy and Greece shared this option, but Great Britain and Denmark didn't; Portugal would have wanted every state to have a single vote in the Council, if this matter of qualified majority had become a part of the treaty³⁷; the Netherlands admitted the version of qualified majority only based on the Community's procedures, in which the Council voted only the proposals of the European Commission.
- "Passageways" Since the "pillar" structure was inescapable, many states sustained that through the future Treaty some inter-governmental problems might pass to Community procedures.

The EU Treaty (TEU)³⁸, known also as the *Treaty of Maastricht*, will partially solve these issues, the first application months of the Vth title³⁹ showing the precarious arsenal given to the second pillar of the EU:

- The confirmation that the CFSP pillar includes the definition of a common defence policy, which should lead to a common defence (art. J.4.1).
- □ The affirmation of the idea that WEU is an integral part of the UE development (art. J.4.2).
- □ The qualified majority voting limitation only to the cases previously decided by the EU Council (art. J.3).
- The insertion, at the insistence of the Belgian side, of the passageways from the inter-governmental cooperation to common procedures (Art. B, par. 5).

The new concepts of common defence and qualified majority voting represented concessions made by the British diplomacy, the strongest opponent to these proposals; the concessions were carefully calculated, because the common defence was left in "the custody of the future", and the QMV – limited to circumstances that put uncertainty over its applicability.

Away from the total break with EPC⁴⁰ tradition, the Treaty of Maastricht reveals "a contradiction between the ambitions of the EU member states to play an international role and the hesitation to step over the intergovernmental level in order to fulfil these objectives"⁴¹. Although TEU contained a whole rhetoric on the "loyalty spirit and mutual solidarity" that will inspirit the EU, plus the promise to promote a policy in order to cover the whole spectrum of foreign business and security problems, it did not affect the EPC specific – to act only through consensus.

In 1993, the year of entry into force of Treaty of Maastricht, the professor Christopher Hill predicted for the CFSP an exacerbation of "the between gap expectations"42. capabilities and revolutionary step in the European foreign policy - the CFSP suffered from "institutional weakness"43 from the beginning, in a direct comparison to the EMU: "while the EMU had clear propose, the criteria accomplishing it, a calendar of changes, sanctions for the states-members who may not accomplish the obligations and a central institution with a firm mandate for its actions. for the CFSP all this were missing"44.

¹ For the structure and the substance of the study, the author has extensively used the works of Simon Duke (see *The Elusive Quest for European Security. From EPC to CFSP*, Macmillan Press, London, 2000), Ken Endo (see *The Presidency of the European Commission under Jacques Santer*, Macmillan Press, London, 1999) and Philippe de Schoutheete de Tervarent (see "The Creation of the Common Foreign and Security Policy", in Elfriede Regelsberger, Philippe de Schoutheete de Tervarent, Wolfgang Wessels (eds.), *Foreign Policy of the European Union. From EPC to CFSP and Beyond*, Lynne Rienner Publishers, Boulder, London, 1997)

² The G 7 Summit from Paris (1988) gave the European Communities – especially to the executives, the European Commission- to coordinate the help of the western states to the eastern ones.

³ See Jacques Delors, Le Nouveau Concert Européen, Éditions Odile Jacob, Paris, 1992, pp. 335-336.

⁴ To remember the bitter irony of Sir Leon Brittan, "Europe talked while Bosnia burned", in Sir Leon Brittan, Europe: The Europe We Need, Hamish Hamilton, London, 1994, p. 168.

⁵ See Philippe de Schoutheete de Tervarent, op. cit., p. 42.

⁶ *Ibidem*, p. 43.

⁷ See Agency Europe: Europe Documents, no. 1608, 29 March 1990.

⁸ The Kohl-Mitterrand joint letter was published in *Agency Europe: Europe Documents*, no. 5238, 20 April 1990 ⁹ *Presidency Conclusions*, Dublin European Council, 28 April 1990.

¹⁰ Presidency Conclusions, Dublin European Council, 25 and 26 June 1990.

¹¹ See Philippe de Schoutheete, op.cit., p. 45.

¹² See the Opinion of the European Commission of October 22, 1990, the European Parliament Resolutions of July 11 / November 22, 1990, the *Declaration* of the European Community Inter-parliamentary Conference of November 30, 1990.

¹³ In October 1990, a conference of the Parliament representatives of the EC – the forum that joined for the first time – will have a similar position.

¹⁴ The moral author of this phrase is Jacques Delors, who affirmed in January 1990: "We identify essential joint interests and open the way, not to an identical foreign policy, but to actions in pursuit of those essential interests" - Jacques Delors, op. cit., p. 209.

¹⁵ See Philippe de Schoutheete, op. cit., p. 47.

¹⁶ Presidency Conclusions, Rome European Council, 14 and 15 December 1990.

¹⁷ The demission of Mrs. Thatcher happened on November 22, 1990.

¹⁸ The Treaty of B russels (1948), modified through the P aris P rotocols in 1954; see the text of the treaty in Willem van Eekelen, *Debating European Security*, 1948-1998, Sdu Publishers, The Hague, Center for European Policy Studies, Brussels, 1998, pp. 335-339.

¹⁹ At the informal Foreign Ministers Summit in Asolo (October 6-7, 1990) a work document will be elaborated, the *Asolo List*, that will have a long, but less important, career in preparing the Maastricht Treaty.

²⁰ The IGC works were officially opened on December 14, 1990.

²¹ "Joint Initiative on Establishing a Common European Foreign and Security Policy" (February 4, 1991).

For a detailed analysis of the British euroscepticism see David Gowland & Arthur Turner, Reluctant Europeans. Britain and European Integration 1945-1998, Longman, London, 2000.

²³ Sir Douglas Hurd, Churchill Memorial Lecture, Luxemburg, 19 February 1991.

²⁴ Agency Europe: Europe Documents, no.1706, 16 April 1991.

²⁵ In this period, many analysts and even negotiators of the EC states were thinking to much more treaties and unions; see Philippe de Schoutheete's comments, op.cit., pp. 50-54.

²⁶ Agency Europe: Europe Documents, no. 1722 / 1723, 5 July 1991.

²⁷ The other "pillars".

²⁸ This can be solved only if confronted with "big difficulties".

²⁹ Jacques Delors, op.cit., p. 303.

³⁰ Presidency Conclusions, Luxemburg European Council, 28 and 29 June 1991.

³¹ Apud Philippe de Schoutheete, op.cit., p. 57.

³² Agency Europe: Europe Documents no. 1733 / 1734, 3 October 1991.

33 EPC's, for example, based on the "informal consensus" rules that bring the "club atmosphere" – see Michael Smith, "What's Wrong with the CFSP? The Politics of Institutional Reform", p. 4, in P.-H. Laurent and M. Maresceau (eds.), The State of the European Union, Volume 4, Lynne Rienner Publishers, Boulder, CO, 1998.

³⁴ The diplomatic groups will talk about the "black Monday day" and the press about the "Hague suicide".

³⁵ Agency Europe: Europe Documents no. 1737, 17 October 1991.

- ³⁶ As the CFSP is a French-German initiative (see the Kohl-Mitterrand joint letter), the first military corps (October 11, 1991) will be a French-German one, too.

 37 Since the '50s the member states of the European Community had the number of votes according to their size
- and weight.
- ³⁸ Signed in Maastricht, on February 7, 1992, The Treaty on European Union will come into force on November 1, 1993.
- ³⁹ Title V: Provisions on a Common Foreign and Security Policy.

⁴⁰ See *supra*, note 32.

- ⁴¹ Hill and Wallace, "Introduction: Actors and Actions", p. 4, in Christopher Hill (ed.), The Actors in Europe's Foreign Policy, Routledge, London, 1996.
- ⁴² The capabilities-expectations gap see Hill, "Closing the capabilities-expectations gap", pp. 19-24, in John Peterson & Helene Sjursen (eds.), A Common Foreign Policy for Europe? Competing visions of the CFSP. Routledge, London, 1998 – an 1997 update of his 1993 famous study.
- ⁴³ See the study of John Peterson, "Introduction: the European Union as a global player", in John Peterson & Helene Siursen (eds.), op. cit.
- ⁴⁴ Apud Michael Smith, Achieving the Common Foreign and Security Policy: Collusion and Confusion in EU Institutions, p. 2, paper presented at the Tenth International Conference of Europeanists, Chicago, 14-16 March 1996.