

Is Being Consistently Inconsistent, Being Consistent?

Dr Simon Duke

Associate Professor at EIPA

EIPA's research project¹ on consistency in the EU's external relations takes as its departure point the call in the TEU for 'consistency of its external activities as a whole in the context of its external relations, security, economic and development policies.' The consistency refrain appears not only overtly but also implicitly as in, for example, the Union's objective to assert 'its identity on the international scene.'

What does consistency mean? Consistency is considered to be coordinated behaviour based on agreements amongst the Union and its Member States, where comparable and compatible methods are employed in pursuit of a single objective which results in an uncontradictory policy.²

In accordance with the literature in the field, consistency is considered in its vertical and horizontal manifestations: vertical consistency considers relations between the Member States and the Union, while horizontal consistency applies to relations between the external relations apparatus of the Union.

In the CFSP context, which is the subject of the first part of the project, consistency has considerable practical importance. The unsure and spasmodic EU reactions to a variety of post-cold war security challenges (Bosnia, Albania and Kosovo in particular) and reliance upon the U.S. for leadership and military muscle, have illustrated CFSP's shortcomings in stark relief. An inconsistent response to crisis situations will have no deterrent effect upon future trouble-makers or abusers of human rights. The ability to offer a seamless web of crisis responses, ranging from non-military to military forms, will not only make the Union in general a consistent actor but may well contribute to the stability of the region. It is an interesting and perhaps sobering realisation that in every single post-cold war European crisis, *ad hoc* solutions and reliance upon 'coalitions of the willing' has been the *modus operandi*.

Consistency is not considered to be a legal requirement since its justiciability is, at best, weak. Perhaps this is the first of many inconsistencies in the EU's external relations, where the responsible overseers are identified in the TEU (the Council and the Commission) but there are no real means of control or enforcement, especially in the second pillar. However, even if there were adequate means within the Union, inconsistency may still stem from the Member States and the different national ministries therein. The manner in which the Member States organise themselves domestically (vertical consistency) is therefore an issue which needs to be addressed in parallel with efforts to ensure the consistency of the Union.³

Vertical consistency is notoriously difficult to ensure since, in the foreign and security policy realm, the mechanisms employed by the fifteen foreign ministries to ensure that 'its' voice is heard in Brussels varies enormously. Some are more effective than others since they have highly organised and centralised structures to ensure this while others, especially those with coalitions or political forms of cohabitation, find

it much harder. The intergovernmental nature of the EU's second pillar may also encourage the advancement of national positions over the search for commonalities. Larger states will also tend to forward their interests in different ways from smaller states in the external relations realm as will those with special positions, like the neutral and non-aligned members. One obvious, but highly sensitive, way of addressing some of the root causes of vertical inconsistency is to stress greater training and co-ordination efforts at the European level for diplomats and officials in the CFSP realm. In this regard many of the European militaries (and, to an extent, the defence industries) have realised the need for Standard Operating Procedures (which is of essential importance for a consistent response capacity) between themselves. The economic and political pressures that bear upon the militaries in post-cold war Europe have already induced profound changes that may yet have a 'trickle up' effect on foreign policy planners.

Generally at the horizontal level progress has been made, especially after the dismantling of most of the old European Political Co-operation and Community parallel structures in the Maastricht Treaty. The Amsterdam Treaty introduced a number of potentially valuable mechanisms to enhance CFSP consistency. For instance, the Policy Planning and Early Warning Unit (PPEWU), although modest, opens up the possibility of more deliberative approaches to issues rather than reactive and *ad hoc* reactions. The use of Qualified Majority Voting in the second pillar may also help avoid paralysis through the need for unanimity but any use of armed force will require unanimity and, as Bosnia and Kosovo showed, a strong external influence to provide the requisite leadership and coherence.

Efforts to enhance both vertical and horizontal consistency have continued during the last year which, at least on paper, may prove to have been CFSP's *annum mirabilis* based on the apparent determination of the EU Member States to give substance to vision. Accordingly, the Cologne and Helsinki European Council proposed a number of new permanent bodies for the second pillar. The introduction of the interim Political and Security Committee (COPS), the Military Committee and Military Staff, on 1 March 2000 holds the promise of improving consistency between CFSP and the burgeoning Common European Security and Defence Policy (CESDP) – also referred to at Cologne and Helsinki. But, precisely how the new structures fit in with existing ones, such as COREPER, remains to be seen. Although Article 25 of the TEU suggests that treaty revision is not necessary for the introduction of the interim (and later permanent) bodies, there would seem to be compelling political reasons to use the ongoing intergovernmental discussions as a way of clarifying their mandates and relations with other structures. Finally, the introduction of the second common strategy, on the Ukraine, at the December 1999 Helsinki European Council represents a tremendously useful device for consistency since it remains the only form of

decision-making that covers all the pillars.

The new CFSP structures may also have implications for consistency at the national level where the growing visibility of defence ministries, alongside trade ministries, in European affairs may challenge the traditional role of foreign ministries as *primus inter pares*. It would be a misnomer to suggest that the European Council's initiatives will cause inconsistency but they may nevertheless exacerbate the trend away from foreign ministries as 'gatekeepers' of external relations in the EU context thus posing new challenges to vertical consistency.

Consistency has a further important aspect – how the Union is seen by third parties. In this respect the Union has perhaps unwittingly done itself a disservice with the appointment of a High Representative for CFSP (especially such a well known international diplomat). Javier Solana's appointment has raised the question of who embodies the external *persona* of the Union. Is it Romano Prodi, Chris Patten, Javier Solana or any number of other Commissioners who can legitimately claim external interests? Prodi's invite and subsequent withdrawal of an invitation to Libya's Colonel Muammar Gaddafi underlined the point.

Consistency also extends to the EU's relation with other regional and international organisations. The partial merger of the WEU into the EU carries with it the seeds of greater predictability and consistency (with the notable exception of defence). However the potential for inconsistency is also apparent if the Member States fail to plan together to procure and fund the necessary resources to make CESDP a reality. This is a matter of immediate concern to not only the EU fifteen but also the eighteen non-EU WEU associates or observers and the four non-EU NATO members. The inter-organisational aspects of security and defence may well pose the biggest challenge to consistency in the second pillar.

The WEU, for all practical purposes, will soon disappear which means that EU-NATO relations will become of prime importance and, if conflict prevention continues to be stressed, so too will EU relations with the Council of Europe and the OSCE. In spite of the generally positive notes being sounded in the aftermath of the joint NATO-WEU crisis management exercise (CMX-CRISEX) in February 2000, it is worth noting the exercise comprised two scenarios. One was a 'NATO only' collective defence exercise and the other was a joint NATO-WEU crisis management exercise using NATO assets. The scenarios perhaps unwittingly pointed at the future path for European defence and security.

It is unlikely that the four neutral and non-aligned EU members, to which Denmark should be added, will accept the indirect or direct incorporation of a defence role into the EU *post* WEU. This implies that consistency within the CESDP may well be found through surrendering the defence aspects found in, for example, Article 17 of the Treaty on European Union. The 'D' in CESDP would therefore have to be dropped and this role would fall explicitly to NATO. In the EU context the emphasis would then be upon crisis prevention and crisis management which will still necessitate the kinds of military improvements identified by the Cologne and Helsinki European Council summits, as well as the WEU's November 1999 Audit of Assets and Capabilities.

Following a Finnish-Swedish initiative, emphasis has also been placed upon non-military crisis management.⁴ The non-military crisis management goals outlined at Helsinki may not be as attention grabbing as the 'headline goals' for the development of the EU's military crisis management capability, but they pose considerable demands on

consistency. Not only does it necessitate consistency between the pillars of the Union in issues as diverse as humanitarian assistance, civilian policing, search and rescue and administrative and legal rehabilitation, it also demands considerable coordination with other international organisations in the field, such as the OSCE and UN, as well as a host of NGOs. The record in Bosnia and Kosovo suggests that there is considerable room for improvement in this regard.

Consistency also requires that attention be paid to the aftermath of the WEU and, specifically, in what ways the Associate Members (Czech Republic, Hungary, Iceland, Norway, Poland and Turkey) should be involved in EU crisis management operations. The status of the WEU's current observers (Austria, Denmark, Finland, Ireland and Sweden), all of whom are EU members, means that prior agreement is necessary in the EU Council before non-EU NATO members can be invited to participate. Since the WEU was used to operating 'at 21' (the ten full members, plus the six associate members and the five observers) and, with increasing frequency 'at 28' (adding on the seven associate partners), the question rises of whether Europe can retreat back to fifteen. The importance of consistency between the external relations pillars of the EU may well point in this direction while, if the CMX-CRISEX sets an example, there is a need to prepare for crisis management 'at 30' (the 28 plus Canada and the United States).

The research, which is confined to the second pillar so far, notes a number of improvements in consistency at the vertical and horizontal levels. Notwithstanding a number of significant developments, the highly intergovernmental nature of the CFSP continues to give rise to concern about the Union's overall consistency as an actor on the international scene. Above all, the Kosovo crisis showed how much there is to be done to create a seamless web of appropriate and applicable tools for post-cold war external relations. These should range from conflict prevention to a variety of crisis management tools ranging from diplomatic intercession, to economic leverage, to the credible threat of armed force and, *in extremis*, the use of armed force. The continued inability to link these facets together in a predictable and coherent manner will condemn the Union to consistently inconsistent responses – otherwise known as *ad hoc*ery. Further research will examine consistency in other areas of the Union's external relations such as trade and development.

NOTES

- ¹ The first output of the project is Simon Duke, 'Consistency as an Issue in EU External Activities,' *EIPA Working Paper 99/W/06*, available only on-line as a pdf file at: http://eipa-nl.com/public/public_publications/default_working.htm. Comments and suggestions are welcome.
- ² The definition is based on that of Horst-Günter Krenzler and Henning C. Schneider, 'The Question of Consistency,' in Elfriede Regelsberger, Philippe de Schoutheete de Tervarent and Wolfgang Wessels (eds.), *Foreign Policy of the European Union: From EPC to CFSP and Beyond*, (Boulder: Lynne Rienner Publishers, 1997), p.134.
- ³ For a discussion on this issue see David Spence, 'Foreign Ministries in National and European Context,' in Brian Hocking (ed.), *Foreign Ministries*, (Basingstoke: Macmillan, 1999).
- ⁴ See *Helsinki European Council: Presidency conclusions*, Annex 2 to Annex IV, 'Presidency Report on Non-Military Crisis Management of the European Union,' Helsinki, 10-11 December 1999. □