

# **BALANCE OF COMPETENCES FOREIGN POLICY REPORT: RECORD OF FCO SEMINAR, 16 JANUARY 2013**

## Introduction

1. The FCO, in partnership with the MoD and Civil Contingencies Secretariat (CCS) in the Cabinet Office, hosted an evidence-gathering seminar for the Balance of Competences Foreign Policy Report on 16 January 2013. It was attended by a wide range of think tanks, academics and London-based embassies. This record, in agreement with participants, is under the Chatham House Rule, i.e. remarks are not attributed by name to those present. It is not an exhaustive record but draws out key points made relating to the balance of competences between the EU and the UK and the impact on the UK interest.
2. The seminar was organised into six plenary sessions (Human rights and Democracy; International Security Threats; Conflict; Strategic Partnerships; Global Issues/Climate Change and Future Challenges) focused on case studies and open debate. CCS hosted a workshop on Civil Protection in parallel to one of the sessions.

## Session 1: Human Rights and Democracy

3. Participants said that **the Arab Spring** had been a test of fire for the European External Action Service. The division of competences between the EU and Member States had not affected the FCO's work. The UK/EU policy response had been shared with the UK helping shape a revised Neighbourhood Policy (budget of 13bn euros for 2007-13, with two-thirds of this earmarked for the southern neighbourhood) to ensure that EU engagement with transition countries was calibrated to match reform. The EU had been swift to respond to developments both in terms of its financial response and election support. More could be done on mobility, markets and to ensure that EU Task Forces for transition countries focused more on the substance of reform plans. The UK was working to that end.
4. **Burma** was also judged to be a case study where working through the EU had added value to UK action through:
  - the imposition of EU sanctions (which had far more reach than national sanctions alone);
  - strategic use of the General System of Trade Preferences;
  - statements relating to human rights;
  - coordination of positions in UN human rights bodies;
  - humanitarian and development aid.
5. The following additional points were made:

### *Added value of working through the EU*

- There was consensus on both the Arab Spring and Burma that the EU had brought added value to UK policy on human rights and democracy. The financial instruments at the EU's disposal and collective weight of acting at 27 could simply not be matched by the UK acting alone.
- There were times when action through the EU had watered down a UK position – for example when Member States had pressed for sanctions to be suspended in April 2012, the UK would have preferred a significant gesture but to maintain the pressure. On balance however, the gains of collective action through the EU had far outweighed the benefits of a UK national response.
- The EU can or does have positive impact in key areas of multilateral work, such as UN budget discipline and management reform, sanctions, conflict diamonds (via the Kimberley Group), human rights, and conflict prevention.

### *Competence not competences is the real issue*

- Competences were not the issue. Member States had competing trade interests in Arab Spring countries, and were more concerned about those than human rights. This undermined EU arbitration efforts.
- Arab Spring countries had turned to the EU for external validation of their transition efforts because of the EU's own history and soft power. The EU had provided financial and moral support. The challenge now was to ensure the promised Deep Comprehensive Free Trade Agreements became reality. The “mobility” commitments were the weakest area precisely because they relied on member states' political will.
- The EU was currently absorbed by its own growth agenda and therefore unwilling to make the trade concessions necessary to stimulate the economies of transition countries. Success would depend on growth going hand in hand with reform. If the EU could not or would not deliver, was it wise for the UK to associate itself too closely with EU reform efforts as it could be tarred with the same brush when these failed?
- Lisbon had promised to join up the use of the EU's foreign policy tools. It was debateable whether this was happening. The UK should help ensure it did.

### *EU Human Rights Instruments*

- EU human rights dialogues with Third countries were often devoid of substance. The EU should be enjoined to publish the results. But, unlike many Member States, the EU did raise human rights with China.
- The Human Rights Clause in Third Country agreements was not effectively used. It had never been invoked in agreements with either Tunisia or Egypt. EU policy could be more effective if Member States insisted that human rights work was a foreign policy priority. Effectiveness derived from political will.
- The UK at times sought to split away from the EU group in the Human Rights Council in Geneva to pursue its own agenda. This might bring short term gains but was a poor strategic calculation as it undermined the power of the EU group in a body which worked on the basis of regional caucuses. Others were less convinced, arguing that an increasing number of cross-regional alliances were forming in the HRC. These could at times produce good results.
- The EU was too prone to “grand rhetorical statements” on human rights but action fell short of ambition. The UK should help keep the focus on tangible outcomes.

#### *EU v Member State Competence*

- One participant argued that the EU was good at the institutional aspects of foreign policy but not at fire-fighting in a crisis. Mali was a case in point. There was a precious balance to be preserved between EU and Member State competence which was at risk of erosion the more EU foreign policy machinery was consolidated. Reliance on the EEAS should not inhibit the use of valuable bilateral influence in the common interest.
- The UK needed to decide whether it wanted to be influential or not on the world stage. There was a trade off between influence and independence. The UK might do well to look at the influence of other medium sized countries on foreign policy.
- EU influence was a counterbalance to that of the US.

#### Session 2: The role of the EU in combating international security threats including proliferation

6. Participants identified three broad categories of **international security threats**:
  - **proliferation and weapons of mass destruction** where it was relatively easy for the EU to coordinate and operate effectively given high levels of shared interest amongst Member States. EU expenditure was substantial, if exceeded by that of the US;

- **conventional weapons** where EU exclusive competence on trade would increasingly make itself felt;
  - **terrorism** where competence lay mostly with Member States supported by intelligence agencies. The EU could nevertheless act as a multiplier for Member State CT investment.
7. Participants were positive about the EU's role on **the Iran/nuclear dossier** both on the pressure (sanctions) and engagement (invitation to negotiations) tracks. The EU was perceived as a more neutral broker than individual members of the E3+3. EU sanctions had also encouraged like-minded countries to take similar action and e.g. oil sanctions had undermined Iran's narrative that the rest of the world needed Iran more than Iran needed the rest of the world. The EU's "declaratory diplomacy" was important in showing a united front.

The following additional points were made:

*Added value of working through the EU*

- EU sanctions were a clear example of where collective action was more effective than action by individual Member States.
- There were times when the UK's history would make it difficult to have a productive bilateral dialogue with a country. In such cases, and Iran was one, it could be in the UK's interest to work through the EU.
- In relation to Iran, it was important to allow for flexibility in negotiation, bringing in other international partners (e.g. US) as needed.

*EU v Member State Competence*

- The Arms Trade Treaty negotiations were an area of shared competence where the UK retaining a national position had had a positive effect. Individual Member States such as the UK had taken the floor in addition to the EU which had added progressive voices to the debate. Others however had not taken the EU line which undermined it. EU discipline in international negotiations was important.

*Effectiveness of sanctions*

- Sanctions were a blunt instrument.

Session 3: Conflict

8. Participants set out the **EU's policy instruments for tackling different phases of the conflict cycle** including: i) the EU providing half the world's

development aid; ii) the Instrument for Stability; iii) enlargement and trade policy; iv) sanctions; v) civilian and military CSDP.

9. On EU action in Somalia, participants highlighted:

- The Comprehensive Strategy agreed for the Horn of African in 2011
- The work of the EU Special Representative
- Operation ATALANTA created to eliminate piracy from the Horn. The Head of the Mission informed the EU Political and Security Committee recently that no ships had been pirated since May 2012.
- The training of 3000 Somali troops through EUTM Somalia
- Funding of the salaries of AMISOM (African Union Mission in Somalia)– 16m euros/month
- The EU mission EUCAP NESTOR to help build maritime capacity
- Capacity building at Juba airport
- An EU conference later this year on Somalia's economic development

10. Participants discussed EU Battlegroups (standby military capability created in 2007 but never used), the European Defence Agency (agency to bring together EU military requirements and capabilities). From the UK's perspective EU CSDP membership was an excellent vehicle for promoting the development of EU military capability.

The following additional points/questions were raised:

*Added value of working through the EU*

- The EU was one of the few transnational organisations that could harness a range of defence tools effectively. NATO's comparative advantage lay in the hard end of military activity - fighting. The EU could fill the gap between this and development activity.
- UK participation in EU battlegroups enabled the UK to train other EU forces. The UK was pressing for the specialist capability within battlegroups to be deployed eg forensics.
- EU action in the Horn of Africa was to the UK's advantage due to distance, overstretch of military capacity and resource constraints.
- EU enlargement had proved an extremely effective tool in conflict prevention/the promotion of democracy. UK influence in the Western Balkans would be negligible without its active stance pressing for EU membership.

*EU v Member State Competence*

- Member States could block the deployment of battlegroups which could lead to inertia. Belgium, for example, had called for a battlegroup in the Congo

which the UK had blocked. What was the point of having capabilities if they were never deployed? Wouldn't it be better if there were QMV in this area?

- Was the battlegroup concept a step too far for the EU? Should it be made clearer that EU action should stop short of any hard end fighting? It was better at the non-military, “complementary” aspects of conflict. Arguably the funding system for battlegroups would never work.

### *EU effectiveness*

- EU action in the Horn of Africa was effective due to the range of policy instruments at the EU's disposal and the innovative integrated way in which these were being deployed.
- EU action could be made even more effective by speeding up the implementation of political decisions.
- The EU should focus more on prevention of conflict. This was a weakness in the “comprehensive approach”.
- EU early warning systems were inadequate.
- The European Defence Agency will not work unless member states see it as a vehicle for procurement.
- The EU had provided valuable policing, election and other expert advice in post conflict situations which G8 countries appreciated.
- In order for the EU/NATO relationship to improve, Cyprus/Turkey needed to be resolved.
- Political will was the key to successful CSDP.

### *EU v Member State Competence*

- The UK took a pragmatic view on military cooperation focusing on what was most effective. Some cooperation was best done bilaterally eg with France – hence the Lancaster House Treaty.
- Were we overburdening the High Rep by asking that role to take over defence responsibilities as well as all the foreign policy work?.

### Session 4: Strategic Partnerships

Participants discussed the objectives and modalities of the EU's Strategic Partnerships with Russia and China, highlighting some key opportunities and challenges. EU comparative advantage with Russia and China derived principally from the huge trade incentives the EU could offer (the EU is China's biggest market). Points which emerged in discussion:

#### *Added value of working through the EU*

- In China, the EU's collective leverage could help the UK secure greater market access and an improved business environment. Progress towards an investment agreement, and Commission pressing for

respect of international trade rules, including pursuing trade defence cases where warranted, could also benefit the UK significantly.

- The EU could add weight to UK efforts on human rights and in addressing frozen conflicts. Given the trade interests countries were forced to listen on human rights.

### *EU effectiveness*

- There were examples of some EU successes in trade with Strategic Partners e.g. ensuring respect of intellectual property rights and investment protection in China. The EU had also had a major impact on industrial standards in China.
- The competing trade interests of Member States were exploited to drive wedges through action at EU level.
- The UK should be coordinating work better on China and Russia with the External Action Service. There was much to be gained from trying to steer China towards being a more responsible regional and international stakeholder – for example, encouraging a more constructive stance on Syria and Iran, which would clearly be in UK interests.

### Session 5: Global Issues/Climate Change

11. Participants noted that:

- Climate Change was shared competence. Both the EU and Member States could act in international negotiations. The UK however chose to coordinate its positions with the EU eg the negotiations within the UN Framework Convention for Climate Change.
- The 2012 Australia/EU ETS agreement had made a difference to the balance of arguments around Climate Change.
- The EU had taken the lead in pressing countries not to introduce legislation to avoid compliance with aviation being included in the ETS
- The EU had significant resources at its disposal to help fight climate change (e 3.7bn euros disbursed in climate related finance since 2002, 25meuros given to China in climate related technical assistance). These far outweighed those the UK could deploy alone.
- EU energy agreements with Third countries (part of EU competence under the TFEU) such as the Balkans enabled the EU to expand the rule and behaviours of the EU energy market.

12. Additional comments:

*Value added of working through the EU*

- This was a key issue for British foreign policy to get right and it was clear that the UK could achieve nothing in this field on its own. The EU gave additional leverage.

### *EU effectiveness*

- Tom Burke, E3G (who specifically requested that his contribution be attributed) argued that the current EU effort on climate change was not commensurate with the scale of the challenge.
- The EU/External Action Service needed to get better at climate diplomacy. It could learn from the UK.
- Having a common position was all very well but what mattered was actually effecting change. More needed to be done.

### EU v Member State Competence

- The current distribution of competence - where trade was exclusive EU competence but other aspects of climate policy were not - made no sense.
- Climate policy and trade policy were intimately linked. It would be important to reflect this in the BoC reports
- Shared competence was so far essential to any EU success in this area as Members States' action, especially that of UK, was a vital complement to action at EU level. EU exclusive competence on climate matters would undermine that.

### Session 6: Future Challenges

13. Participants discussed some of the key likely changes in the world by 2020:
- Europe accounted for 26% of world GDP today, by 2020 the figure would be 20%
  - Political and military power tended to be associated with economic power. The EU currently accounted for 17% of military spending
  - Power would become increasingly dispersed away from central authorities. It would get harder to govern.
  - World population would move from 7bn now to 8bn by 2020.
  - Statistics on climate change were alarming. Climate change was moving far faster in certain parts of the world than anticipated.
  - Inequality would continue to grow fast.

In this context, the characteristics of an effective global organisation of the future would be:

- Speed
- Legitimacy (given the shift of powers away from central authorities)



Flexibility – organisations would need to be good at networks as well as hub and spoke.

The key question regarding the EU was not about legal competence but about outcomes. In this context was the EU fit for purpose? How could it be outward looking when it was trying to fix the euro? Did it have the right mandate?

14. Participants made the following additional points:

- The EU's share of future resources was pretty good
- It fared better than many other regions on climate
- It fared better than many other regions on legitimacy – the EU itself might not be, but Member States were
- Rule of Law – the EU was at the top end of the spectrum
- Outward looking – the EU might not be currently but its businesses had always been so.
- The ability to build partnerships should be added to the list of qualities of a successful organisation in the 21<sup>st</sup> century.
- The value of the UK being in the European Union was clear.

#### Session 7: Civil Protection

15. CCS gave a brief introduction to Civil Protection at EU level. The initial discussion considered the effectiveness of the EU's delivery mechanisms, where the following points were raised:

#### *Training and Exercises*

- EU civil protection training courses were well funded and facilitated by highly skilled experts with extensive field experience.
- Training at EU level was transferable and of significant value to disaster management at a national level.
- Training courses helped facilitate the forming of networks and relationships that were of significant benefit when in the field.
- Attending the courses created a network of experts that UK responders can readily draw on if they need advice on issues such as procurement of equipment.
- A drawback of EU training is that very few course participants were actually deployed in the field as an expert.

## NGOs

- Historically, some NGOs have not been supportive of the MIC as they felt it duplicated their own tools. However, in the recent past the MIC has been generally viewed more positively due to the quality and effectiveness of its response to disasters.

## *Research project funding*

- Projects were usually well funded but often failed to deliver tangible outcomes in relation to the initial aims.
- Some projects were designed to plug capability gaps in Member States with less developed resilience capabilities. However, as this was not always clear in the initial bid process, the outcomes were not always as effective as they might have been.
- The EU project bidding process was over-long and bureaucratic. Smaller, specialist organisations typically lack the capacity to bid for large Commission-funded projects. As a result, outcomes were often too theoretical and impractical.

16. Discussion then moved onto consider the comparative advantages / disadvantages of working through the EU in Civil Protection. Points that emerged included:

## *Climate change and future challenges*

- In the context of climate change, it was noted that there could be instances in the future when the UK would need to request assistance through the EU's Monitoring and Information Centre (MIC).
- In particular, the UK may not have the relevant expertise to deal with a wider range of disasters such as forest fires which occurred in the UK in 2011. The deployment of international expertise and equipment located largely in southern Europe through the MIC could be of significant value to the UK.
- Similarly, the UK may not have the relevant capacity to deal with high impact disasters such as severe coastal flooding. International assistance through the MIC would be fundamental in this instance.
- The value of the MIC needed to be analysed in the context of the UK's future ability to deal with disasters. The MIC could be used to enhance existing skills within the military in response to high impact disasters in the UK.

17. The workshop then considered whether a different division of EU and Member State competence in Civil Protection would produce more effective policies. The points that emerged included:

*Risk*

- An EU-level risk assessment might be of use to the UK if it looked at high impact events which crossed international boundaries.
- However, if the EU level risk assessment was too high level, it would not be of any use to UK responders.
- The UK should be seen as a unique case. It does not have borders with any MS. An EU level risk assessment may not be applicable as the likelihood of disasters spreading was extremely limited.
- Resources allocated to any pool should only be allocated according to MS' own risk assessments (not according to the EU's).
- Any new risk assessment should not duplicate existing mechanisms or require the UK to share duplicated information.

*Planning*

- European countries had successfully pooled resources on a bilateral basis i.e. not coordinated by the Commission e.g. Southern European countries relied on each other to plug existing capabilities gaps when fighting forest fires.
- Pooling of resources might be useful given that the UK would have significantly fewer resources to address emerging long-term challenges relating to the affects of natural and man-made disasters.

18. When discussing how the national interest might be served by action taken in civil protection at a different level the discussion noted:

- There was a role for NATO in disaster management due to its military capacity. However, the nature of threat was changing from state-centric to environmental and non-state actor based. A civilian force would most likely be better equipped to deal with these types of emerging, increasingly common issues e.g. a military field hospital may not be adequately equipped to deal with disease in refugee camps.
- Historically, NGOs were less likely to have productive relationships with the military in disaster management. There would be greater coordination at all levels when preparing and responding to disasters between NGOs and civil protection personnel (non-military).
- There was value to be added by utilising relationships with Commonwealth countries. For instance, the UK may not have the

expertise to deal with future challenges, but India had extensive experience dealing with a range of disasters and could offer a corridor into China who had allocated extensive resources in the area of disaster management.