

The Reform Treaty's Impact on EU Defence Integration



Dr Liam Fox, MP, argues that if the Reform Treaty is ratified, as many believe will be the case since national governments are going out of their way to avoid holding referendums, there will be long-term negative implications for NATO and democratic legitimacy within the EU.

Defence integration is a divisive subject in the EU. The Atlanticist Member States hate it, the pro-integrationist Member States welcome it, and the neutral Member States view it with suspicion. For most of the 1990's, until Tony Blair at St. Malo, the United Kingdom viewed any attempt at EU defence integration with a high degree of scepticism and caution.

The agreement at the French port of St. Malo on board the HMS Birmingham opened a Pandora's Box of issues regarding the future of EU defence integration. The European Security and Defence Policy (ESDP), along with various military institutions including the European Union Military Staff (EUMS), European Union Military Committee (EUMC), and the European Defence Agency (EDA), all of which were an eventual consequence of St Malo, paved the way for further integration in the area of defence. Many academics argue, and Eurocrats boast, that defence has become, as of late, one of the top areas of EU integration.

So how does the latest EU treaty, the Reform Treaty, impact EU defence integration? The Reform Treaty has faced no shortage of media coverage but in the area of defence there has been little debate as to what affect the Reform Treaty will have.

The aim of this essay is to identify the impact the Reform Treaty will have on EU defence policy and the NATO alliance. If the Reform Treaty is ratified, as many believe will be the case since national governments are going out of their way to avoid holding referendums, there will be long-term negative implications for NATO and democratic legitimacy within the EU.

The Reform Treaty brings to the EU for the first time decision-making by Qualified Majority Voting (QMV) on defence related issues. Although Tony Blair told the House of Commons in June 2007 that "The essential features of the CFSP remain as they were. Unanimity voting is the rule" there

are now three important areas in defence that will use QMV under the Reform Treaty:

- The appointment of the High Representative of the Union for Foreign Affairs and Security Policy [Article 9e(1)];
- The selection of Member States for participation in Permanent Structured Cooperation [Article 31(2)];
- The European Defence Agency's statute, seat and operational rules [Article 30(2)].

In addition to these three areas influenced by QMV there is also a new Solidarity Clause in the Reform Treaty.

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

There has been much focus both academically and in the media on the newly created position of High Representative of the Union for Foreign Affairs and Security Policy but little has been discussed on what implications this new position will have on EU defence policy. Essentially the EU's "Foreign Minister", the new High Representative will also be a Vice-President of the Commission. This will, for the first time, blur the line between what is intergovernmental and supranational within EU foreign policy development and implementation.

This fact warrants closer examination. The Commission, referred to as the 'motor of the EU' by Eurocrats is, by definition,

supposed to be completely independent from the national governments. Members of the Commission "shall neither seek nor take instructions from any government, or institution, body, office or entity" [Article 9d(3)]. Since the High Representative will also be a Vice-President in the Commission, the CFSP will not be strictly intergovernmental. Under the Reform Treaty a Commissioner will now have a direct role in the CFSP.

This is important when considering that under the Reform

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Treaty the High Representative will have a leadership role within the EDA and will preside over the Foreign Affairs Council, a job previously carried out by the Foreign Minister of the country holding the EU presidency. In addition, in a smaller Commission which the Reform Treaty creates [Article 9d(5)], the High Representative will have more influence since he or she will also be one of several Vice-Presidents in the Commission. Supporters of the Reform Treaty want critics to believe this will help establish coherence and consistency between the various supranational and intergovernmental institutions in the EU on foreign policy issues. I believe this to be the first step of an incremental and long-term process that will eventually see EU foreign policy as the remit of the Commission.

The system by which the High Representative is appointed further increases the so-called democratic deficit in the EU. The appointment of the High Representative will be done under QMV. Consequently, there is no British national veto. Furthermore, the appointment must also have the agreement of the President of the Commission and must pass a vote of consent in the European Parliament [Article 9d(7)]. In addition, the European Parliament can force the resignation of the High Representative from his or her duties in the Commission without the Council having a say in the matter [Article 9d(8)]. This process exacerbates the problem of eroding democratic legitimacy within the EU.

Under the terms of the Reform Treaty, the Commission, via the High Representative, will be able to propose military missions for the EU to undertake [Article 27(4)]. Although unanimity in the Council will still apply to all EU military missions, allowing the Commission to make a proposal on such a sensitive matter will give it a right of initiative in an area that should be reserved exclusively for national governments.

Permanent Structured Cooperation

The Reform Treaty introduces permanent structured cooperation in defence/military integration. This will allow countries to 'opt-out' of any further defence integration and will create an 'inner-core' of Member States interested in furthering military integration.

Permanent structured cooperation will be anathema to improving NATO's military capabilities since it discourages small EU members (19 small EU members are also NATO members) from increasing their military capabilities by shifting the burden onto the larger EU members (United Kingdom, France and Germany). This concern is justified.

Not including the United Kingdom, France, and Germany (the three would no-doubt form the 'inner-core'), EU members in NATO spent an average of 1.7% of GDP on defence in 2005. With an inner-core providing the majority of military requirements in the ESDP small EU members have little incentive to spend more on defence or increase the size of their militaries. Currently, 13 EU Member States maintain militaries smaller than the Metropolitan Police!

Permanent structured cooperation was originally viewed negatively by the Labour Government, so why the change of heart now? In an amendment to the 2003 European Convention the Labour Government said that "the UK has made clear that it cannot accept the proposed ESDP reinforced cooperation provisions." But now the Labour Government has caved in to European pressure and accepted permanent structured cooperation in the Reform Treaty.

The Reform Treaty requires only QMV when deciding which EU Member States participate in permanent structured cooperation [Article 31(2)]. Britain's national veto will not apply. At a time when NATO members are having difficulties

deploying only dozens of troops to Afghanistan, permanent structured cooperation will offer small EU Member States the luxury of fulfilling their short-term EU military commitments at the expense of the long-term fighting capability of NATO. This is not the way forward.

European Defence Agency

Even though the European Defence Agency exists today as a part of the ESDP it has never been part of an EU treaty that has been ratified by all Member States. Originally in the Constitutional Treaty, EU elites decided to go ahead with the creation of the EDA even though the Constitutional Treaty failed ratification in France and the Netherlands. Consequently, the

inclusion of the EDA in the Reform Treaty is an attempt by the EU to retroactively justify the existence of an organisation which was created despite being originally part of the failed Constitutional Treaty.

The EDA is viewed by integrationist as a key component to enabling further integration in the area of defence. The Portuguese Defence Minister, Nuno Severiano Teixeira, said in July that he "would venture to say that the EDA symbolises a 'silent revolution' for the EU through the implementation of a comprehensive approach to addressing European defence capability in the support of ESDP". These are strong words considering that Portugal is holding the rotating presidency of the EU.

There is no shortage of criticism regarding the EDA and

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a proper debate on the issue could fill a book in itself. However, now that it is in the Reform Treaty there are two new developments that must be considered. Firstly, QMV will be applied to votes defining the agency's statute, seat and operational rules meaning, of course, that Britain will not have its national veto. Secondly, the Steering Committee, which guides the EDA's policy, will be headed by the High Representative, who as mentioned above, is also a member and Vice-President of the Commission. Furthermore, the Reform Treaty States that the EDA "shall carry out its tasks in liaison with the Commission where necessary" [Article 30(2)]. Again, this blurs the line on what is supranational and what is intergovernmental.

With procurement being such an important issue to national defence one should question the wisdom of applying QMV decision-making and giving the High Representative such an influential role in the EDA. This is especially true for the United Kingdom who has contributed more than £7.4 million to the EDA since its establishment in July 2004.

Solidarity Clause

Under the new Solidarity Clause the Reform Treaty states that "if a Member State is the victim of armed aggression on its territory, the other Member States shall have towards it an obligation of aid and assistance by all means in their power" [Article 27(7)]. This is an obvious duplication of NATO's Article V. A mutual defence commitment in the Reform Treaty is worthless because the ESDP lacks the military capability or the political will to act against armed aggression without NATO's support. This is another example of the EU placing the cart in front of the horse in respect of military capability.

The Solidarity Clause was another issue that the Labour Government sought to avoid in the original Constitutional Treaty. In an amendment during the European Convention in 2003 the Labour Government stated "The UK has made it clear that it cannot accept a provision importing a mutual defence commitment in the European Union. We support what the European Council at Nice stated: 'NATO remains the basis for the collective defence of its members.' Therefore the EU, most of whose members are NATO allies, cannot duplicate this role, either as a whole or through reinforced cooperation." Regardless of Labour's opposition to the Solidarity Clause it still found its way into the text of both the failed Constitutional Treaty and the Reform Treaty.

On a positive note Article 27(7) of the Reform Treaty states that the Solidarity Clause 'shall not prejudice the specific character of the security and defence policy of certain Member States' but this is viewed as a line to appease the neutral countries in the EU such as Ireland, Austria and Sweden and not to alleviate fears about NATO's primacy among the Atlanticists Member States.

Conclusion

The Reform Treaty will deepen EU defence integration.

Euro-enthusiasts have always considered defence integration to be an incremental process. The Reform Treaty is simply another step along the way to realising "ever closer Union". The long-term costs of deepening defence integration will come at a high price to the fighting capability of NATO. The appointment of the High Representative will come at the cost of less democratic legitimacy in the EU.

The advancement of defence integration in the Reform Treaty is a result of the green light given to integrationist by Tony Blair and Jacques Chirac at St. Malo nine years ago. If one considers the amount of EU defence integration since St. Malo compared to prior when the very mention of EU defence was a taboo, one can clearly see that there is justification for concern. The Reform Treaty should be viewed as a warning to Atlanticists across Europe.

The HMS Birmingham, the ship where the St Malo agreement was signed in 1998, was decommissioned in 1999, sold in 2000, and was then dismantled in Spain. It is a shame that further EU defence integration, and the Reform Treaty, will not meet a similar fate.

Dr Liam Fox is the Conservative Member of Parliament for Woodspring and Shadow Secretary of State for Defence



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Marta Andreasen, the former chief accountant of the European Union, has lost her claim against the EU for wrongful dismissal. She was sacked after alleging that EU book-keeping was riddled with "slush funds and fraud" and disclosing that there was a £130million discrepancy between two sets of EU accounts which, incidentally, haven't been signed off for the past thirteen years. This is how accountability seems to work in the EU. Andreasen has done an excellent service to British taxpayers by making a stand on the dodgy dealings in the EU. Taxpayers put billions into EU coffers each year and for there to be massive differences – £130million is not small change – in accounts year on year show that the EU needs to be held to account. Contact your MEP at www.writetothem.com and demand that the EU sort out its accounts. It's our money, tell your MEP to fight for it.