Taking Stock of the 'Common' in the European Union's Common Foreign and Security Policy

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Introduction

Foreign policy is notoriously difficult to formulate and implement when more than one foreign ministry is involved. The European Union (EU) has articulated an ambition to develop and deepen a common foreign policy that requires policy consultation among its 28 member states. Not only is this an arduous task bureaucratically, it also presupposes the existence of common political visions. This chapter asks to what extent such common visions exist and thereby reflects on the European Union's state of play of its Common Foreign and Security Policy (CFSP). It analyses CFSP both in terms of institutions and substantive policies. Showing how EU foreign policies after the adoption of the Lisbon Treaty have partially been crafted without the necessary institutional consolidation, it sheds light on the many policy challenges that EU diplomacy is confronted with. A first section briefly outlines the most important institutional innovations in the foreign policy sphere brought about by the Lisbon Treaty, followed by a second section that reflects on the perception of EU Governance and the portrayal of EU Foreign Policy. This section is deemed necessary on a conceptual level before the remainder of the chapter proceeds with a discussion of empirical cases that 'test' the Union's CFSP in action. The first policy challenge to CFSP that this chapter analyses by way of illustration is the implosion of governance structures in the European neighborhood in the wake of the so-called 'Arab Spring' and the transnational war in Syria. At a time where CFSP was undergoing institutional sea changes, world political events caught EU foreign policy flat-footed to respond to crises unfolding at its doorstep. Such a gloomy finding is contrasted in the following fourth section with a brief discussion of the EU's foreign policy performance at the Iran nuclear talks, a case widely considered a 'success story' of EU diplomatic engagement. The fifth section discusses the impact of the 'Ukraine crisis' on both the EU's foreign policy maneuverability and the perception thereof in other parts of the world. The aspect of foreign policy perception will also be assessed in relation to the 2015 refugee crisis, which has become a stress test for common foreign policy responses. Finally, this chapter also touches upon the Union's Common Security and Defense Policy (CSDP) and its intricate interplay between NATO structures and EU autonomous defense instruments. The EU 'used the entire range of its tools – CFSP and non-CFSP – to respond to [...] challenges', and 'coupled diplomacy with new and existing Common Security and Defence Policy (CSDP) missions on the ground', the 2014 Annual Report of the High Representative for Foreign Affairs and Security Policy to the European Parliament states.[1] It will be the purpose of this chapter to analyse to what extent such a combination of foreign policy instruments has in fact taken place in a way that enhances the EU's external ability to act and to respond to foreign policy challenges in an appropriate manner. The European Union's credibility as a foreign

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[1] General Secretariat of the Council, 'Main aspects and basic choices of the CFSP', *Draft Annual report from the Higher Representative of the European Union for Foreign Affairs and Security Policy to the European Parliament*, endorsed by the Council on 20 July 2015, <http://data.consilium.europa.eu/doc/document/ST-11083-2015-INIT/en/pdf>.

policy actor, it will be argued, hinges on its ability to both formulate common strategies and policies internally, and to hold such policies up in the face of third parties in order to see such European foreign policies implemented beyond declaratory rhetoric.

From Treaties to Institutions to More Substantive Impact?

Since its inception with the Maastricht Treaty in 1993, the EU's Common Foreign and Security Policy (CFSP) had been intergovernmental and incremental in nature. The 'common' in CFSP has been attested a sluggish development both by scholars and foreign policy practitioners. Born under the impression of the First Gulf war and at a time where German reunification provided for a renewed push for a united European foreign policy, CFSP replaced the loosely coordinated European Political Cooperation (EPC) of the 1970s. For the following 25 years, EU foreign policy was coordinated in an intergovernmental way as the 'second pillar' under the Maastricht Treaty, with some reforms and codifications introduced by the 1997 Amsterdam and the 2000 Nice Treaty (most notably, the appointment of a Higher Representative for CFSP by the Amsterdam Treaty). The Council General Secretariat functioned as the focal point where foreign policy on an EU level was coordinated under the rotating presidencies of the Council – in effect, this had been the case ever since the Single European Act of 1987 had established the first permanent EPC Secretariat inside the Council General Secretariat. The 2009 Lisbon Treaty has meant a sea change in European Union (EU) foreign policy. A new diplomatic machinery, the European External Action Service (EEAS), was set up in order to assist the High Representative of the Union for Foreign Affairs and Security Policy, who at the same time became a Vice-president of the European Commission. The EEAS was to be composed of Commission officials, staff from the Council General Secretariat, and seconded diplomatic staff from the Member States.[2] The Commission's Directorate-General for external relations (DG Relex) was absorbed by the newly-created EEAS, external delegations reporting to DG Relex became Union delegations reporting to the EEAS and the High Representative.[3] With the Maastricht pillar structure formally abolished, the Lisbon Treaty now also enshrined a 'legal personality' for the EU in its own right, bolstering the Union's capacity to act in the global arena. Article 21 of the Treaty on the Functioning of the European Union (TFEU, hereinafter 'Lisbon Treaty') made explicit reference to the EU as a foreign policy maker. Despite the intention to streamline foreign policy competencies and reduce irritation over institutional complexities, the Lisbon treaty still maintained foreign policy mechanisms shared between the HR and the EEAS, the Commission, and the EU Council presidency. The latter's rotation has not been abolished, although the idea was to see its importance in foreign policy decline. The Council presidency can still promote foreign policy priorities, while the European Parliament (EP), though limited in its foreign policy competence, can influence the EEAS budget. Undoubtedly, Lisbon saw a drive for more foreign policy consolidation and clarification, and a renewed ambition to shape

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[2] S. Vanhoonacker & N. Reslow, 'The European External Action Service: Living Forwards by Understanding Backwards', *European Foreign Affairs Review*, 15, 2010, p 2.

[3] Id., p. 13. Yet to complicate matters, missions deployed under the EU's Common Security and Defence Policy (CSDP) have their own staff and policy agendas that can render coordination between CSDP missions and Union delegations bureaucratically cumbersome.

a stronger role for the EU on the global stage, as also testified by efforts to secure an 'enhanced observer status' for the EU in the UN General Assembly.[4] Before this article proceeds to shed light on the performance of EU foreign policy in responding to concrete policy challenges, a few words on the oft-cited concepts of 'coherence' and 'consistency' precede at this point, without which the 'nature of the beast' of EU foreign policy cannot be fully grasped.

The 'Coherence' and 'Consistency' Narrative in EU Foreign and Security Policy

Article 21 of the Lisbon Treaty calls for the responsibility of Commission, Council and the High Representative to ensure coherence of the EU's external actions. Much has been made of the EU's alleged lack of coherence and consistency in its conduct of foreign policy. The 'coherence' and 'consistency' debates have long already become a hobby horse in EU Studies scholarship.[5] While coherence distinguishes between vertical (between EU, members state, and sub-national levels) and horizontal (inter-institutional and across policy domains, 'cross-pillar' before the Lisbon Treaty) coherence of EU policy, consistency is associated with policies that make sense in long-term policy planning, with a more or less reliably strategic foreign policy, in other words. Inabilities on an EU level to agree on a common foreign policy stance, as the Council divisions among members states in 2003 over the Iraq war have shown, let CFSP appear inconsistent. By design, 'coherent' and 'consistent' foreign policy as the output of a hybrid entity like the European Union has to be the outcome of a long and often tortuous policy-making process. Important institutional innovations have taken place since Christopher Hill wrote about a 'capabilities-expectations gap' that he detected in EU foreign policy in 1993.[6] In coherence-and-consistency speak, streamlining the Union's foreign policy competences that were divided across pillars and actors in an effort to improve the EU's vertical and horizontal coherence was one of the main foreign policy drivers behind the Lisbon Treaty. Criticisms of the EU's policy incoherence and lack of consistency are relatively easy to utter when the organization is compared with national foreign ministries. Essentially, these are often labels and narratives that are re-produced, reifying images held and concepts superimposed. The 'one voice' narrative is another example of a reality-producing expectation ever since Henry Kissinger made his famous joke about the 'one

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[4] F.A. Guimarães, 'Speak Up! Getting the EU a Voice at the UN General Assembly', *in* J.A. Koops, & G. Macaj (Eds.), *The European Union as a Diplomatic Actor*, Basingstoke: Palgrave Macmillan, 2015, pp. 88-102.

[5] cf. C. Gebhard, 'Coherence', *in* C. Hill, & M. Smith (Eds.), *International Relations and the European Union*, 2nd edition, Oxford, Oxford University press, 2011, pp. 101-127; S. Nuttall, 'Coherence and Consistency', *in* C. Hill & M. Smith (Eds.), *International Relations and the European Union*, Oxford, Oxford University press, 2005, pp. 91-112.; C. Bretherhon, & J. Vogler, The European Union as a Global Actor, Abingdon, Routledge. 2006, pp. 174-177; H. Mayer, 'The Challenge of Coherence and Consistency in EU Foreign Policy', *in* M. Telò & F. Ponjaert (Eds.), *The EU's Foreign Policy. What Kind of Power and Diplomatic Action?*, Farnham, Ashgate, 2013, pp. 105-117; C. Lequesne, 'The European External Action Service: Can a New Institution Improve the Coherence of the EU Foreign Policy?', *in* M. Telò & F. Ponjaert (Eds.), *The EU's Foreign Policy. What Kind of Power and Diplomatic Action?*, Farnham, Ashgate, 2013, pp. 80-83; M.H. Smith, 'The EU as a Diplomatic Actor in the Post-Lisbon Era: Robust or Rootless Hybrid?', *in* J.A. Koops, & G. Macaj (Eds.), *The European Union as a Diplomatic Actor*, Basingstoke: Palgrave Macmillan, 2015, p. 21.

[6] C. Hill, 'The Capability-Expectations Gap, or Conceptualizing Europe's International Role', *Journal of Common Market Studies*, 31, 1993, pp. 305-328.

number' to call in Europe about foreign policy.[7] Attempts have also been made to conceptualize the *nature* of EU foreign policy, ranging from 'civilian power' Europe[8] to 'normative power' Europe[9] to an EU 'structural foreign policy'.[10] At the bottom of all scholarly and policy debates about the best way to conceptualize EU foreign policy, the EU remains a hybrid entity defined by fluid frictions between intergovernmentalism and supranational mechanisms. 'The new mega-narrative of Europe in a non-European world would abandon simplistic 'one voice' straitjackets', Hartmut Mayer writes to that effect.[11] And Michael Smith formulates: '[…] the post-Lisbon EU institutionalises hybridity in its diplomacy'.[12] CFSP never was as common as, e.g., the Union's Common Commercial Policy. The issue and policy domain at hand decides which end of the intergovernmental-supranational spectrum will dominate the policy debate. It is an entity whose complexity eschews easy categorizations traditionally employed in state governance. An attempt to assess EU foreign policy governance today has to analyse the application, response, and impact of the institutions of CFSP to events that challenged their consolidation from the outset.

Testing the 'Common' in EU Foreign Policy: The Arab Spring, Libya and Syria

CFSP underwent institutional changes and an experimental testing phase with the set-up of the newly created EEAS at a time where tumultuous political changes in the European neighborhood demanded a common foreign policy reaction on the part of the EU. The annual CFSP report to the European Parliament nebulously states the wordy common place that CFSP 'is set against the backdrop of a fragmented but interdependent global environment which is increasingly complex, ambiguous and unpredictable'.[13] The EEAS, still in its learning phase, was unprepared for the crises that soon tested its durability as a foreign policy actor, and of CSDP as a genuine defence-coordination structure. One such crisis was what came to be termed 'Arab Spring' in media and government parlance. Surprised by the popular uprisings in North African countries that spread from Tunisia in 2010, and at a time where Europe was bogged down in its most severe financial crisis, including ensuing budget cuts in the defense sector, the EU's policy response was inadequate. Without a consolidation of the

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[7] Macaj and Nicolaïdis provide a critique of the 'one voice mantra' that equates 'EU unity' with 'EU influence'. Cf. G. Macaj & K. Nicolaïdis, 'Beyond 'one voice'? Global Europe's engagement with its own diversity', *Journal of European Public Policy*, 21, 7, 2014, pp. 1067-1083.

[8] F. Dûchene, 'Europe's Role in World Peace', *in*: R. Mayne (Ed.), *Europe Tomorrow: Sixteen Europeans Look Ahead*, London, Fontana, 1972, pp. 32-47.

[9] I. Manners, 'Normative Power Europe: A Contradiction in Terms?', *Journal of Common Market Studies*, 40, 2003, pp. 235-258.

[10] S. Keukeleire, 'The European Union as a Diplomatic Actor. International, Traditional and Structural Diplomacy', *Diplomacy and Statecraft*, 14, 2003, pp. 31-56.

[11] H. Mayer, 'The Challenge of Coherence and Consistency in EU Foreign Policy', *in* M. Telò & F. Ponjaert (Eds.), *The EU's Foreign Policy. What Kind of Power and Diplomatic Action?*, Farnham, Ashgate, 2013, p. 115.

[12] M.H. Smith, 'The EU as a Diplomatic Actor in the Post-Lisbon Era: Robust or Rootless Hybrid?', *in* J.A. Koops, & G. Macaj (Eds.), *The European Union as a Diplomatic Actor*, Basingstoke: Palgrave Macmillan, 2015, p. 12.

[13] General Secretariat of the Council, 'Main aspects and basic choices of the CFSP', *Draft Annual report from the Higher Representative of the European Union for Foreign Affairs and Security Policy to the European Parliament*, endorsed by the Council on 20 July 2015, <http://data.consilium.europa.eu/doc/document/ST-11083-2015-INIT/en/pdf>, p. 20.

policy instruments created by the Lisbon Treaty and with different perceptions and interests among member states, the EU sent lukewarm support for democratic upheavals at best. In contradiction with its normative discourse, and in the face of European long-standing partnerships with authoritarian regimes in the region, the EU's reaction to the 'Arab Spring' proved to be dishonest, and was anything but a common policy. The EEAS and the Commission responded primarily by channeling emergency aid through the instruments available as part of the EU's Neighborhood Policy, and a 'European Endowment for Democracy (EED) was set up.[14] The EU's responses focused on the '3 M's': Money, Mobility and Markets.[15] A common foreign policy was also entirely absent when civil war broke out in Libya and Colonel Qaddafi responded with a ruthless suppression of the insurgencies. Member states like Germany and Poland opposed a military intervention in response to the conflict in the EU's Southern neighborhood, while France initiated a military alliance with like-minded states such as the United Kingdom and Italy in March 2011, and relying on NATO and US support logistically. US President Obama's mantra of 'leading from behind' – conceived as an 'anti-free rider campaign' in military and defense matters, as Obama himself put it (Goldberg 2016)[16] – then exposed the inadequacy of the EU's security and defense capabilities. The Libyan crisis, Jolyon Howorth succinctly puts it, was 'in many ways the archetypical scenario for which the EU, through CSDP, had been planning since the Balkans fiasco 20 years earlier'.[17] Yet, with internal divisions, a lack of strategic vision and poor operational planning, in which the European 'coalition of the willing' almost ran out of munitions,[18] Libya proved to be a disaster for CSDP.

EU policy documents at the time notably lacked any 'self-criticism and political, strategic thinking'[19] – an observation that held true all the more with the outbreak of violence in Syria in the same year. HR Ashton met with the Syrian National Council and started engaging in mediatory diplomacy. Yet, with no common position among member states as to how to engage in a civil conflict that quickly turned into a transnational war, EU mediation lacked strategic vision and impact. Beyond issuing statements in support of the Arab League initiative, 'supporting the efforts' of the UN Special Envoy de Mistura, and 'welcom[ing] efforts to establish a united platform […] for a shared vision for the future of Syria',[20] the EU remains a passive bystander to the conflict. The only framework text for peace talks remains the 2012 Geneva communiqué. Airstrikes against the so-called 'Islamic State' in 2015 were part of unilateral member state foreign policies, and only testified rather deep divisions among member states as to their Syria policies. The increased multilateral framing of airstrikes in

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[14] R. Gillespie, 'The European Neighbourhood Policy and the Challenge of the Mediterranean Southern Rim', *in* M. Telò & F. Ponjaert (Eds.), *The EU's Foreign Policy. What Kind of Power and Diplomatic Action?*, Farnham, Ashgate, 2013, p. 125.

[15] European Commission, 'The EU's response to the 'Arab Spring', *Press Release*, 16 December 2011, <http://europa.eu/rapid/press-release_MEMO-11-918_en.htm>.

[16] Geoffrey Goldberg, 'The Obama Doctrine', *The Atlantic*, April Issue 2016, <http://www.theatlantic.com/magazine/archive/2016/04/the-obama-doctrine/471525/>.

[17] J. Howorth, 'The Lisbon Treaty, CSDP and the EU as a Security Actor', *in* M. Telò & F. Ponjaert (Eds.), *The EU's Foreign Policy. What Kind of Power and Diplomatic Action?*, Farnham, Ashgate, 2013, p. 65.

[18] Id., p. 73.

[19] E., Soler i Lecha & E. Viilup, 'Reviewing the European Neighbourhood Policy: A Weak Response to Fast Changing Realities', *CIDOB (Barcelona), Notes Internacionals*, 36, June 2011, p. 5.

[20] European Commission, 'The EU's response to the 'Arab Spring', *Press Release*, 16 December 2011, <http://europa.eu/rapid/press-release_MEMO-11-918_en.htm>.

November 2015 as a reaction to the 13 November Paris attacks came as the result of the French invocation of Art. 42(7) of the Lisbon Treaty – a mutual defense clause, similar to NATO's Art. 5, that was now used for the first time. Short of a joint CFSP act, however, the invocation was a French request for bilateral assistance from other EU member states, and arguably cannot compensate for the lack of an EU policy on Syria in the preceding five years.

The EU's Mediation in the Iran Nuclear Talks and the E3+3 Format

Contrary to the EU's failure to appear as the strong foreign policy actor in the 'Arab Spring' that many had expected after the Lisbon Treaty, the Iranian nuclear talks are commonly cited as a success story for a proactive European diplomacy both by scholars and practitioners.[21] With the discovery of Iranian covert nuclear facilities, and in the absence of US-Iranian diplomatic relations, it fell to the EU to negotiate with Iran. This necessity gave birth to the format of the 'E3' (i.e. France, Great Britain and Germany). This extra-CFSP format was joined by the EU High Representative for the Union's Common Foreign and Security Policy, Javier Solana at the time, in late 2003. The EU had a history of engagement with the Islamic Republic of Iran, dating back to the phases of 'critical dialogue' and 'constructive dialogue' during the Rafsanjani administration. When European diplomacy failed to produce tangible results in the ensuing diplomatic stand-off, the case was referred to the UN Security Council in February 2006. The negotiating format was expanded to the 'E3+3' (the E3+ the US, China, and Russia), or the P5+1 (the five permanent Security Council members plus Germany). EU positions in the Iran nuclear file from 2006 onwards oscillated between original European positioning, as in the first phase of diplomacy from 2003-2005, and aligning EU policies with policy preferences formulated in Washington, as the adoption of EU unilateral Iran sanctions testified, at a time where also European entities were affected by US unilateral sanctions with extraterritorial application.[22] With the advent of the EEAS, European diplomacy again became a driving force in nuclear negotiations with Iran. The EEAS nuclear negotiation team was at the helm of policy coordination and used to chair the talks, with the EU High Representative briefing the other 25 member states in the Council afterwards.[23] The negotiation of a nuclear agreement with Iran in July 2015 was to no small extent the result of successful European foreign policy. Russian deputy foreign minister Sergei Ryabkov acknowledged the European contribution in an interview as follows: 'The role of the EU and of the European External Action Service is hard to exaggerate; they coordinated the talks, they summarized the outcome of the discussions, and in fact they were

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[21] T. Sauer, 'The EU as a Coercive Diplomatic Actor? The EU-3 Initiative towards Iran', *in* J.A. Koops, & G. Macaj (Eds.), *The European Union as a Diplomatic Actor*, Basingstoke: Palgrave Macmillan, 2015, pp. 103-119. Another case cited in the CFSP annual report where the EU successfully led international peace negotiations is the dialogue between Belgrade and Pristina.

[22] Note that this consensus relates to the governmental level. A private sector representative remarked that the US State Department had been anxious of the European Court of Justice being too interventionist with regard to unilateral sanctions legislation, as a number of cases challenging the legality of targeted sanctions against entities or individuals have been successful before the ECJ. While there is often a lack of evidentiary standards and due process, the US government's position has been that 'they like the legal uncertainty because it often leads to over-compliance.' EU Sanctions workshop under Chatham House rules, 14 May 2015, London.

[23] Interview with EEAS official, Brussels, 4 June 2013.

the ones essentially drafting the text, together with Iranian representatives'.[24] Initially created as an ad-hoc mechanism to quickly respond with crisis diplomacy outside of formal CFSP structures, the E3 format has proved to be a useful tool in EU diplomacy. EU foreign policy in this case may not have been as *common* as the treaty had originally envisaged, but it did manage to raise approving recognition worldwide of the EU as a diplomatic actor.

EU Foreign Policy at the Crossroads in its Eastern Neighborhood

The same cannot be said of EU foreign policy in its immediate neighborhood. The EU's Eastern Neighborhood Programme (ENP) that was born in 2004 lumped together the Southern and the Eastern neighborhood and was quickly criticized for taking a too country-unspecific and generic approach. This programme was then refined with a more differentiated approach that separated 'the South' from 'the East'. The 2008 Eastern Partnership now sought to formulate more integrative approaches to the EU's Eastern neighbors (Armenia, Azerbaijan, Belarus, Georgia, Moldova and Ukraine). The means of achieving gradual regional integration was by way of closer market harmonization. Interregional trade projects, however, have become the stumbling bloc in EU-Russian relations, as it had become clear that Russia had its own ideas about market integration in this region. The Eurasian Economic Union that formally was launched in January 2015 to succeed the Eurasian Customs Union of 2010 and the 'Single Economic Space' that had come into effect in 2012 (consisting of Belarus, Russia, Kazakhstan) was an explicit counter-model to the EU's Eastern neighborhood projects. Ukraine happened to become the *casus belli* between these two integration models.

The ensuing 'Ukraine crisis' became an 'actorness' test for the European Union that catapulted trade talks residing with the Commission into the foreign policy and security realm. European mediation was expected at the outbreak of a crisis in which Ukrainians were prepared to die for a future in Europe. The EU's underperformance in this role as crisis manager led to disillusion not only in Ukraine, where the initial motivation behind the 'Maidan' revolts had been to step up for a closer association with the EU. The EU's inability to find a common language on the crisis triggered by the non-signing of the Association Agreement first, and on Russian policies in Ukraine next were received with scorn and ridicule on the part of Moscow, but also Washington. The leaked remarks by US Assistant Secretary of State for European and Eurasian affairs Victoria Nuland to 'fuck the EU' have become emblematic for US puzzlement about the EU's internal divisions about the appropriate approach to the Ukraine crisis and to European-Russian relations.[25] Single EU member states sought to mediate, when the foreign ministers of Germany, France, and Poland travelled to Kiev in the format of the so-called 'Weimar Triangle', but a *common* European foreign policy was conspicuously absent. HR Catherine Ashton travelled to Kiev to express

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[24] Center for Energy and Security Studies, 'The Iran Nuclear Deal: Russia's Interests and Prospects for Implementation', 14 August 2015, *Transcript of a Meeting with Russian Deputy Foreign Minister Sergey Ryabkov,* < http://ceness-russia.org/data/page/p1494_1.pdf?mkt_tok=3RkMMJWWfF9wsRogvazKZKXonjHpfsX64u8rUKCg38431UFwdcjKPmjr1YUDScd0aPyQAgobGp5I5FEIQ7XYTLB2t60MWA%3D%3D>.

[25] BBC, 'Ukraine crisis: Transcript of leaked Nuland-Pyatt call', *BBC Europe News*, 7 February 2015, <http://www.bbc.com/news/world-europe-26079957>.

solidarity with the Maidan protesters, yet a common CFSP position was impossible from the outset due to the stark divisions as to perceptions of the nature and origin of the conflict among member states. The only notable 'common' reaction was the adoption of EU sanctions against Russia, aided by the momentum generated by the Russian annexation of Crimea in March 2014. These sanctions targeted Russian capital markets and dual-use goods, and imposed travel bans and asset freezes against Russian and Ukrainian individuals, 'including persons providing support to or benefitting Russian decision-makers'.[26] In the absence of the full implementation of the Minsk agreement on the regulation of the conflict in Eastern Ukraine, and short of a strategic review of the use and lifting process of EU sanctions on Russia, these restrictive measures have been prolonged, and stand emblematic of the frosty state of relations between the EU and Russia. Meanwhile, EU election observer missions as well as loans and grants to support the Ukrainian reform process constitute the bulk of EU foreign policy instruments to help Ukraine develop stable institutions – a process which cannot be conceived outside the toolbox of crisis management operations anymore. The 'Ukraine crisis' has demonstrated how the EU's conduct of regional relations far exceeds the management of its neighborhood policy with a narrow focus on a political and economic 'approximation' between the EU and its neighbors, but has become a crucial test for the EU's CFSP and, indeed, its appeal to be a global actor mindful of the security implications of its foreign policy.

The Refugee Crisis and its Implications for EU Foreign Policy

Another structurally and perhaps more difficult test for the EU's CFSP came with the massive influx of migrants and refugees to the EU in the summer of 2015. As a consequence of five years of war in Syria, disintegrating governance structures in Iraq, and a fanning of Islamic extremism across the region, millions of people have fled – into refugee camps in neighboring countries first, then towards 'fortress Europe'. The ensuing policy debate did not confine itself to the domain of migration policy. In the absence of a common EU migration policy and with the realization that the conceptualization of the interplay between EU external borders and the internal Schengen area was never logically thought-through, migration challenges spilled over into the foreign policy domain. The inherent contradiction between the free movement of persons as one of the 'four freedoms' of the EU internal market and the 'Dublin system' for asylum seekers came crashing down at a time where foreign policy responses had to be found to handle the root causes of migration. A voluntary refugee re-distribution quota failed to gauge momentum in the Council, with Slovakia being the first member state to formally file a lawsuit at the European Court of Justice, followed by Hungary. At the same time, European heads of state and government pledge to fight poverty, instability and radicalism in North Africa, sub-Saharan Africa and Syria's neighboring countries to reduce the 'push factors' for

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[26] General Secretariat of the Council, 'Main aspects and basic choices of the CFSP', *Draft Annual report from the Higher Representative of the European Union for Foreign Affairs and Security Policy to the European Parliament*, endorsed by the Council on 20 July 2015, <http://data.consilium.europa.eu/doc/document/ST-11083-2015-INIT/en/pdf>, p. 46.

migrants and refugees.[27] European governments realized the urge to address violence and instability in the Middle East and North Africa as a concrete response to a threat to the stability of EU mechanisms. Crisis diplomacy with Syria, Iraq, and neighboring countries started to be combined with efforts to modify existing mechanisms that traditionally had belonged to the 'third pillar' of Justice and Home Affairs under the Maastricht Treaty. The EU is thus challenged on all policy fronts, forcing responses from the tool box of all institutions and policy instruments (development aid residing with the Commission, coordination of migration policies in the Council, diplomacy and crisis management on the part of the EEAS). More than ever, real-life events do not wait for the EU to consolidate its CFSP. Coherent responses must be found, sometimes creatively, and with the level of political willingness and European solidarity required.

Sanctions, Defense Autonomy, and Credibility

Alongside European solidarity, the EU's credibility as a foreign policy actor hinges on its ability to carve out an autonomous voice on the international diplomatic stage.[28] The factor of 'autonomy' is illustrated in this section with the two examples of sanctions and defense capabilities. Sanctions are a CFSP instrument and adopted by Joint Council Decisions. Their application and effectiveness are monitored by Sanctions Divisions within the EEAS. However, absent a strategic policy debate about the use, effectiveness and, importantly, the lifting process of CFSP sanctions, it can safely be questioned whether EU sanctions are always adopted in Europe's interest. Let us take the example of EU Iran sanctions. While the EU threatened formal resistance through the World Trade Organisation (WTO) against the extraterritorial application of US Iran sanctions in the 1990s, European governments had come to a tacit *modus vivendi* with the US administration over US secondary sanctions. These sanctions are called 'secondary' because they do not only affect a targeted entity (Iran), but seek to punish third country engagements with the target country. The 'national interest' waivers granted by US administrations to EU entities, however, were substituted by presidential executive orders in the Obama administration which again sanctioned EU trade with Iran.[29] European entities, as a consequence, were sanctioned because of business interactions with Iranian entities that were on *US* sanctions lists. The EU response was no formal complaint, but, instead, an 'over-compliance' with US provisions that manifested itself in Council-adopted EU sanctions that went well beyond UN, or even US, Iran sanctions. The EU decision to impose an embargo on Iranian oil has even been likened to an 'ice-breaker for the EU', lowering 'the resistance to further sanctions decisions'.[30] Former Iranian official Seyed Houssein Mousavian writes in his 2014 book: 'One of the harshest blows to the Iranian

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[27] R. Youngs & J.P. Gutman, 'Is the EU Tackling the Root Causes of Middle Eastern Conflict?' *Carnegie Article*, 1 December 2015, <http://carnegieeurope.eu/2015/12/01/is-eu-tackling-root-causes-of-middle-eastern-conflict/imi6?mkt_tok=3RkMMJWWfF9wsRouuK3OZKXonjHpfsX64u8rUKCg38431UFwdcjKPmjr1YsBTsN0aPyQAgobGp5I5FEIQ7XYTLB2t60MWA%3D%3D>.

[28] On a discussion of the challenges and prospects of the EU's global strategy, cf. also Geor Hintzen's contribution in this volume.

[29] S. Lohmann, 'Zwang zur Zusammenarbeit', *SWP-Aktuell* vol. 54, 2015, pp. 1-8.

[30] S. Lehne, 'The role of sanctions in EU foreign policy', *Carnegie Article*, 14 December 2012, <http://carnegieendowment.org/2012/12/14/role-of-sanctions-in-eu-foreign-policy/etnv>.

financial system came with the US Congress threatening to place sanctions on the Belgian-based Society for Worldwide International Financial Telecommunication (SWIFT) unless they cut ties with all Iranian banks. […] Unsurprisingly, the EU yielded to US threats and consequently cut off the Iranian Central Bank from the international financial system'.[31] While the latter quote sums up the Iranian perception, the relevance of this observation for the EU's foreign policy is this: the EU's over-compliance with US sanctions preferences accounted for a loss of agency. The implementation of the 'Joint Comprehensive Plan of Action' reached between the E3+3 and Iran on 14 July 2015 foresees the lifting of Iran sanctions as Iran complies with its respective terms of the agreement. While EU unilateral sanctions (as well as US and UN nuclear-related sanctions) began to be lifted on 16 January 2016, US unilateral Iran sanctions that were imposed because of human rights violations and 'sponsorship of terrorism' will remain in place. The issue of the extraterritorial application of these sanctions is one that will continue to bedevil the EU-US dialogue on Iran for some time to come. The Iran sanctions debate demonstrates the intricate nexus between CFSP decisions, US-EU relations, and the credibility of Europe as an autonomous foreign policy actor.

A similar autonomy-credibility nexus is pertinent in CSDP. Militarily, the EU remains a decentralized and fragmented entity. EU police and military missions (as defined by the 1998 'Petersburg tasks') are by and large an instrument to support the EU's civilian presence. Following the 1999 Helsinki European Council, the EU established a European Security and Defense Policy (ESDP) that was renamed Common Security and Defense Policy (CSDP) in the Lisbon Treaty. The EU currently oversees 16 CSDP missions to, e.g., help build security capacities in Mali, fight piracy at the Horn of Africa, or train police forces in the Palestinian Territories. The treaty also foresees a 'permanent structured cooperation (PESCO)', which encourages member states to coordinate military capabilities like joint disarmament operations, humanitarian and rescue tasks, […] conflict prevention and peacekeeping tasks, [and] post-conflict stabilization'.[32] It is here that ideas of 'pooling and sharing' of military capabilities resurface, particularly in a context where EU member states introduce budget cuts in their respective defense industries. As the Libyan crisis in 2011 demonstrated, however, the EU is no military actor capable of living up to the expectations generated by the post-Lisbon CSDP. The Libyan operation, once again, has called into question the NATO-CSDP relationship – a debate reminiscent of the debate about a 'European Security and Defense Identity' in the 1990s. In essence, the debate centers around the autonomy of the EU as a security actor. In view of CSDP's disappointments, commentators therefore call for a merger of CSDP with NATO.[33] This would avoid the operational and logistical duplication that then-Secretary of State Madeleine Albright's referred to as the 'Three D's': no duplication, no discrimination (against non-EU NATO allies, e.g. Turkey) and no decoupling (of ESDP from NATO).[34] Former US Ambassador to NATO Nicholas Burns even called ESDP a 'wasteful,

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[31] S.H. Mousavian, (with S. Shahidsaless), *Iran and the United States. An Insider's View on the Failed Past and the Road to Peace*, New York, London, Bloomsbury, 2014, p. 38.
[32] Art. 28B TFEU.
[33] J. Howorth, 'The Lisbon Treaty, CSDP and the EU as a Security Actor', *in* M. Telò & F. Ponjaert (Eds.), *The EU's Foreign Policy. What Kind of Power and Diplomatic Action?*, Farnham, Ashgate, 2013, p. 75.
[34] A. Toje, *America, the EU and Strategic Culture. Renegotiating the Transatlantic Bargain*, New York, Routledge, 2008, p. 105.

unnecessary and disruptive competitor'.[35] Albright's three D's thus had to be understood in a context where the nascent ESDP looked like a threat to the durability of NATO as a security provider. Dobson and Marsh therefore summarize America's approach to and perception of the EU as a security provider: 'it [America] wants greater European burden-sharing and military capabilities, an informal US seat at the EU table and guaranteed NATO primacy'.[36] The point here is that it should not be forgotten that the emergence of the EU as a unified foreign policy actor triggered US resistance to the formulation of its CFSP in the early 1990s. A strong European foreign policy voice, so the understanding in Washington, might undermine US foreign policy priorities and trigger a re-balancing of what was seen as a convenient transatlantic consensus in favor of the United States as a security and defense provider. Initial US-fears of a growing European military power rivalring NATO were soothed when in 2002 both organizations agreed on the 'Berlin Plus' arrangements which entailed the assurance of coordinated actions, mutual reinforcement, implementation of common security standards as well as the EU's access to NATO assets and capabilities.[37]

The cases discussed in this chapter, however, have shown how CSDP became inextricably entangled with the overall credibility of the EU's CFSP. At a time where Europe is surrounded by foreign policy challenges in almost its entire neighborhood, the EU needs to become the foreign policy actor the US did not want it to be for the last two decades, if it wants to survive as an organizational entity. Howorth thus puts it the following way: 'Either the Europeans agree to develop the necessary instruments to underpin their global strategic ambitions; or they agree to become a continental-sized Switzerland'.[38] Transnational wars in its neighborhoods with their ensuing migratory and security consequences provide the EU with nothing less than this choice.

Conclusion

The EU remains a hybrid foreign policy actor that combines elements of supranational and intergovernmental decision-making structures. While its foreign policy appearance erodes traditional understandings of diplomacy that largely stem from nation-state thinking, its claim and ambition to be an autonomous foreign policy actor in its own right will continue to create expectations that the Union's Common Foreign and Security Policy often cannot meet. The institutional innovations created for CFSP and CSDP by the Lisbon Treaty have raised expectations by many that the EU would now become a more capable, confident, and autonomous foreign policy actor. They have been disappointed.

By way of illustration, this chapter has discussed a range of empirical cases that confronted and challenged CFSP in the years following the Lisbon Treaty's innovations. The negotiations surrounding the Iranian nuclear programme are one of the examples where EU foreign policy made its voice heard and where its impact was positively received in the world.

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[35] A. Ambos, 'NATO-EU Relations', *In*: D. Mahncke, A. Ambos, & C. Reynolds, *European Foreign Policy – From Rhetoric to Reality?* College of Europe Studies, 2004, p. 187.

[36] A.P. Dobson & S. Marsh, *US Foreign Policy since 1945*, Abingdon and New York, Routledge, 2006, p. 150.

[37] F.S. Larrabee, F.S., 'ESDP and NATO: Assuring Complementarity', *International Spectator*, 34, 1, 2004, p. 52.

[38] J. Howorth, 'The Lisbon Treaty, CSDP and the EU as a Security Actor', *in* M. Telò & F. Ponjaert (Eds.), *The EU's Foreign Policy. What Kind of Power and Diplomatic Action?*, Farnham, Ashgate, 2013, p. 71.

In other cases, the sheer lack of a common foreign policy drew criticism and outright scorn on the part of other international foreign policy actors. This was notably the case with the EU's late and sluggish response to the 'Ukraine crisis', and to the implosion of governance structures in Iraq and Syria. The Libyan crisis of 2011 provided an occasion for the Union's CSDP to meet its 'reality check'. The latter attested the Union an insufficiency as a military actor without NATO reliance. Unsurprisingly for an organization consisting of 28 sovereign member states, internal divisions characterized the EU's reaction to conflict and uprisings in Libya, Syria, or Ukraine. As a result, the EU's foreign and security policy was anything but common.

The refugee crisis of 2015, then, added an additional layer of cross-policy complexity: Seen for too long as semi-distant crises that could be dealt with by way of traditional diplomacy, the conflicts in the Middle East and elsewhere have generated a migration flow that hit the EU institutionally and conceptually unprepared. Policy challenges traditionally associated with migration, justice, and home affairs have spilled over to become a stress test for CFSP as well. More than ever, coherent actorness demands the efficient combination of CFSP with non-CFSP instruments (development cooperation, trade and humanitarian aid), the latter of which resides largely within the Commission's capacities, and the combination of EU instruments with those of other international actors. The CFSP annual report acknowledges this necessity to 'further improve coordination and complementarity of its external action' in what the EU calls a 'comprehensive approach'.[39] As a consequence, the tool box of EU foreign policy will have to be expanded inter-institutionally and across policy domains to adjust to a situation that will not only define the perception of the EU as a foreign policy actor, but as a sustainable organization as such.

Finally, this chapter has shown how EU foreign policy could only ever become a genuinely common European policy if a process of emancipation as an autonomous actor takes place. While the institutional consolidation of EU defense structures remains unlikely, a shift away from a transatlantic automatism when it comes to security policies should be in Europe's interests. While this does not necessarily mean a defense duplication of NATO, it should be a call for a more confident foreign policy actorness.

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[39] General Secretariat of the Council, 'Main aspects and basic choices of the CFSP', *Draft Annual report from the Higher Representative of the European Union for Foreign Affairs and Security Policy to the European Parliament*, endorsed by the Council on 20 July 2015, <http://data.consilium.europa.eu/doc/document/ST-11083-2015-INIT/en/pdf>, p. 301.