THE ROLE OF THE EUROPEAN PARLIAMENT
AND NATIONAL PARLIAMENTS
IN FOREIGN AND SECURITY POLICY

NOTE

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PART I. THE EUROPEAN PARLIAMENT'S ROLE UNDER THE TREATIES

The European Parliament's influence on the Common Foreign and Security Policy (CFSP) and the European Security and Defence Policy (ESDP), which will become an integral part of the CFSP under the Constitutional Treaty, consists of both formal and informal elements. This section of the study seeks to establish a basis for comparing the institutional position of the European Parliament with that of directly elected national parliaments. It therefore focuses on foreign and security policy in the narrow sense and formal competences in this sphere, starting with the existing situation (Treaty on the European Union (TEU) and Treaty establishing the European Community (TEC)) and going on to outline the main stages of the constitutional process and its conclusion by the Intergovernmental Conference. To complete the picture, Community policies such as external trade or development policy are mentioned in passing but not described in detail. Nor did it seem necessary to provide a comprehensive review of parliamentary activities in recent years, as this information is already available from other sources.

Current state of the law

The CFSP is largely based on Title V of the TEU, and in particular on Articles 11-28. There are also further provisions in Title I (common provisions), in particular in Articles 2 and 3, in the final provisions of Title VIII, in the Protocol on Article 17 annexed to the Treaty of Amsterdam, in declarations 27-30 of the Treaty of Maastricht and in the five declarations on the CFSP annexed to the Treaty of Amsterdam. Finally, there are also a number of relevant provisions in the EC Treaty, including Articles 296, 297, 300 and 301.

Basic principles

Article 11(2) of the TEU requires that the Member States support the CFSP actively and unreservedly, refrain from any action which is contrary to the interests of the Union or likely to impair its effectiveness in international relations and work together to develop political solidarity (added by the Treaty of Amsterdam). As a general principle, decisions by the (European) Council are not directly binding upon the Commission and Parliament, as under Article 3(2) of the TEU these institutions must merely comply with the general requirement to ensure consistency. In addition, the Commission is entitled to participate fully in CFSP activities (Articles 18(4) and 27 of the TEU).

The Presidency must consult the European Parliament (EP) on the main aspects of the CFSP and ensure that the views of the Parliament are duly taken into consideration (Article 21 of the TEU). Parliament also has the right to be kept informed by the Presidency and the Commission, and it

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1 Part I drawn up by the Directorate-General for Internal Policies, Constitutional Affairs department.
3 A detailed presentation and analysis of this work programme can be found in the Foreign Affairs Committee's activity report for the fifth legislative term (Committee on Foreign Affairs, Human Rights, Common Security and Defence Policy, Communication to Members No 09/2004, Activity Report for the 5th term (1999-2004)), May 2004, PE 341.376). A summary table of the main hearings can be found in the Annex.
4 Declaration No 2 on enhanced cooperation between the EU and the WEU, No 3 on the WEU, No 4 on Articles 24 and 38, No 5 on Article 25 and No 6 on the establishment of a policy planning and early warning unit.
is entitled to ask questions of the Council or make recommendations to it. It has no decision-making powers.

Developments up to and including Amsterdam

The Treaty of Maastricht introduced common positions and joint actions as instruments for the new CFSP (so-called second pillar), with the aim of encouraging the emergence of common principles, possibly with operational provisions to put such principles into practice. The joint actions are more ambitious than the common positions, as they require increased discipline and close coordination from the Member States. However, declarations remain the instrument most frequently used by the Council.

During the 1996 Intergovernmental Conference, demands put forward by the European Parliament included the following:

- In view of the reduction in the efficiency and consistency of the CFSP caused by the division into pillars, the CFSP should be incorporated into the Community structure.
- The European Union should be given international legal personality to enable it to act as a legal entity.
- The use of qualified majority voting should become the norm.

The Treaty of Amsterdam merely amended Article 3(2) of the TEU to include an obligation for the Council and the Commission to cooperate in order to ensure consistency in all the external activities of the Union. The objectives of the CFSP were extended slightly, and the structure and hierarchy of the new CFSP instruments improved. Article 12 of the TEU now provides for five instruments:

- principles and general guidelines,
- common strategies,
- joint actions,
- common positions and
- systematic cooperation between the Member States.

The policy planning and early warning unit established on the basis of the above-mentioned Declaration No 6 operates as part of the General Secretariat of the Council, and is under the responsibility of its Secretary-General, High Representative for the CFSP. Its tasks include the following: monitoring and analysing developments in areas relating to the CFSP; providing assessments of the Union's foreign and security policy interests; providing early warnings in crisis situations and contributing to policy formation in the Council by means of analyses, recommendations and strategies.

The requirement for unanimity remains a feature of the decision-making process. Article 23(1) establishes the general rule that decisions on CFSP matters should be taken by unanimity and constructive abstention: abstentions by members present in person or represented shall not prevent the adoption of decisions. Article 23(2) states that the Council shall act by qualified majority when adopting joint actions, common positions or taking any other decision on the basis of a common strategy, or when adopting any decision implementing a joint action or a common
position, unless a Member State declares beforehand that for important reasons of national policy it intends to oppose one of these decisions. In such cases, the Council may, acting by a qualified majority, request that the matter be referred to the European Council for decision by unanimity.

Parliamentary scrutiny

Article 21 provides only for a consultative role for the European Parliament. The Council Presidency and/or the High Representative for the CFSP and the Commission must keep the Parliament regularly informed of the development of the CFSP. Parliament may ask questions of the Council or make recommendations to it, and it holds an annual debate on progress made in this field.

Article 28 states that administrative expenditure on CFSP matters shall be charged to the budget of the European Communities as non-compulsory expenditure. This is also the case for operational expenditure, except for that relating to operations with military or defence implications and cases where the Council, acting unanimously, decides otherwise. In these exceptional cases, expenditure is charged to the Member States in accordance with the gross national product scale, unless the Council, acting unanimously, decides otherwise. The Community budgetary procedure applies to the expenditure charged to the budget of the European Communities.

In its resolution of 13 April 2000, the European Parliament called on the 2000 Intergovernmental Conference to provide for greater involvement of the Commission and the Parliament in the decision-making process. Parliament also repeated its proposal for the positions of the High Representative for the CFSP and Commissioner responsible for External Relations to be merged in due course into a specially appointed Vice-President of the Commission, and for a common European diplomatic service to be created.

Nice

Separately from the Intergovernmental Conference, the European Council of Nice also approved the Presidency's report on the European security and defence policy, which provided for the development of the EU's military potential, the creation of permanent political and military structures and the incorporation of the WEU's crisis management functions into the EU.

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1 On 16 July 1997 an interinstitutional agreement was concluded between the European Parliament, the Council and the Commission on provisions regarding financing of the common foreign and security policy (OJ C 286, 22 September 1997, p. 80). This agreement was revised by the Interinstitutional Agreement of 6 May 1999 on budgetary discipline and improvement of the budgetary procedure, in particular Section H, paragraphs 39 and 40. (OJ C 172, 18 June 1999, p. 1). The agreement was updated in a Joint Declaration by the European Parliament, the Council and Commission on the financing of the CFSP of 25 November 2002 (Minutes of Ecofin meeting Doc. 14610/02, p. 8). Finally, the Council and Parliament reached an informal agreement in the wake of the 2003 budgetary procedure that Parliament should be given ex-ante information on the CFSP budget at regular intervals.


3 Doc. 14056/2/00 Rev. 2+3.
Article 17 of the TEU was amended by the Treaty of Nice (the provisions which regulated relations between the EU and the WEU were deleted).

In addition, the Political and Security Committee (PSC, formerly the Political Committee, Article 25 of the TEU) may be authorised by the Council, for the purpose and for the duration of a crisis management operation, to take decisions concerning the political control and strategic direction of the operation. The Council now acts by qualified majority when appointing a special representative (Article 23), and the same is true for agreements envisaged in order to implement a joint action or a common position (Article 24).

**Means of influencing policy**

**Consultation**

In accordance with Article 21 of the TEU, the Interinstitutional Agreement of 6 May 1999 requires the Council to submit a report to Parliament once a year setting out the main aspects and basic choices of the CFSP, including the financial implications. This report is referred to the Committee on Foreign Affairs, which draws up a report, on the basis of which the Plenary adopts a resolution. Both the Presidency of the Council and the Commission appear before Parliament to present the annual report.

Parliament has criticised this annual report for containing nothing but figures and failing to provide a policy analysis that could serve as the basis for a foreign policy dialogue between the Council and Parliament. It is asking for future reports to include a real assessment of the Union's foreign policy. On the other hand, the willingness of the High Representative for the CFSP, Javier Solana, and the External Affairs Commissioner, Chris Patten, to hold an open and critical exchange of views with Parliament on foreign affairs issues, including security policy, has been welcomed by many MEPs. During the fifth legislative term both Javier Solana and Chris Patten regularly briefed the Committee on key aspects of the Union's foreign policy, for instance the Balkans or the Middle East or the new security strategy. The latter was presented by Javier Solana at a joint meeting of the EP and members of the national parliaments.

The Commission departments responsible for implementing foreign policy have built up a close relationship with the EP Foreign Affairs Committee over the years. In particular since the start of the French Council Presidency (2001) the President-in-Office (Foreign Minister or Secretary of State) has reported back to the committee after each meeting of the General/Foreign Affairs Council. As these meetings take place every month, the briefings involve not only follow up to the Council meetings but also preparations for them. No foreign affairs committee of any national parliament receives such regular briefings. The European Parliament has therefore become a key partner in the foreign policy dialogue. Parliament also draws up own-initiative reports (for instance the Morillon report on the work of the Convention) explaining its priorities.

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2 A. Laschet, Parliamentarisation of the ESDP, Working Paper Series No. 82, Geneva Centre for the Democratic Control of Armed Forces, August 2002. See also Activity report 1999-2004 of the Committee on Foreign Affairs, Human Rights, Common Security and Defence Policy, op.cit., which includes a comprehensive list of representatives of the Presidency, High Representative and Commission who have attended meetings of the committee.
Following the unprecedented enlargement of the Union in May 2004, which had taken up a great deal of the Committee's capacity, two sub-committees\(^1\) were created after the last European elections and Parliament will now be even better able to deliver opinions on foreign policy and security issues as well as to monitor follow-up by the Council and Commission.

**Appointments**

In the case of the Commission, Parliament has the right to reject the new Commission as a whole (Article 214 TEC) and pass a motion of censure on the serving Commission (Article 201 TEC). For obvious reasons, these two powers are not really effective ways of influencing Commission foreign policy because using them would spark off a serious institutional crisis in the Union.

Although the Treaty makes no provisions to this effect, Parliament has inserted a clause in its Rules of Procedure whereby it can make a recommendation regarding the appointment of the High Representative before he takes office. Similar arrangements apply to the appointment of special representatives for the Common Foreign Security Policy who are required 'to keep Parliament fully and regularly informed as to the practical implementation of their mandates'.\(^2\) As an illustration, the EP receives six-monthly reports from the special Representative for Bosnia-Herzegovina.

**Budget**

The administrative costs of the CFSP come under the Council's budget and there is a long-standing convention between the two arms of the budgetary authority that Parliament will not question this expenditure. Operational expenditure, on the other hand, is charged to the Community budget of the Commission (Title 19). Under the Interinstitutional Agreement of 6 May 1999 on budgetary discipline and improvement of the budgetary procedure (in particular Section 8, paragraphs 39 and 40), the Council, Commission and Parliament are urged to reach agreement on the total estimates for the CFSP and their breakdown in a three-way conciliation procedure or Trialogue. If no agreement is reached, the amount for the previous year or the amount in the preliminary draft budget, whichever is the lower, will be taken.

The Council must also secure Parliament's approval in order to top up individual budget lines during the course of the financial year if the resources allocated turn out to be insufficient. Parliament must be fully informed of the financial implications of Council decisions, including ex-ante information (see section on Parliamentary scrutiny). The Commission is required to provide Parliament with quarterly reports on implementation of the CFSP and the Financial Perspective for the rest of the year. Both the Council and Commission therefore have to inform Parliament of any financial implications fully and at an early stage if they want to be able to carry out foreign policy measures speedily. This is particularly important as it is often difficult to draw a clear distinction between military and civilian measures or between national and European responsibilities, as the EU’s engagement in the Western Balkans demonstrates only too well.

\(^1\) Subcommittee on Human Rights and Subcommittee on Security and Defence. The restructuring of the EP Secretariat has also created a specific Directorate-General for external policies of the Union to deal with Parliament's new tasks.

Cooperation with national parliaments

In addition to the wide-ranging activities of delegations and joint parliamentary committees, which play a key role in the run up to enlargement and in relation to Association Agreements and their implementation\(^1\), the Foreign Affairs Committee has built up close contacts with its counterparts in the national parliaments. This has allowed efforts to be pooled with a view to parliamentarising foreign and security policy. For some time the EP Foreign Affairs Committee has held meetings twice a year with the chairs of the relevant committees of the national parliaments. This practice was inspired to some extent by the EP's concern to keep a critical eye on the work of the WTO, in conjunction with the parliaments of EU Member States, and to influence the negotiating priorities of government delegations in a concerted way. The EP was partly instrumental in arranging joint meetings with members of the national parliaments of European WTO members\(^2\). Furthermore, the chairs of the foreign affairs and defence committees of the national parliaments and the EP (including candidate countries) meet at least twice a year at the invitation of the parliament of the country that holds the Council Presidency.

At the same time, the EP is anxious not to create further institutions, particularly given the existence of COSAC\(^3\) which already serves as a forum for closer cooperation in these policy areas. The Western European Union (WEU) has proposed setting up a forum involving the WEU Parliamentary Assembly and COSAC with the task of exercising parliamentary scrutiny over foreign and security policy. The European Parliament has, or course, strongly resisted proposals of this kind as they would undermine its position as the parliamentary body associated with European CFSP and ESDP. In the public perception, the national parliaments already have a much higher profile than the EP in foreign and security policy debates, particularly when it comes to issues of war and peace.

Access to confidential information

In addition to the proposals and possibilities for treaty reform outlined above, the influence of the European Parliament is of course also evident in the numerous informal contacts between the three institutions. In this connection, it is important to note the Interinstitutional agreement on access to sensitive information in the field of the CFSP/ESDP, in which after years of negotiations a procedure was laid down which was intended to enable the Parliament to exercise closer scrutiny of these policy areas. The agreement between the European Parliament and the Council, which came into force in November 2002, strengthened the position of the Parliament vis-à-vis the Council, for example by creating a special committee (Section 3.3) and a classification system for levels of confidentiality (Section 1.1)\(^4\).

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\(^1\) Most of these bodies have produced activity reports covering the last legislative term and these can be found on the EP's website.

\(^2\) The Parliamentary Conference on the WTO, a joint undertaking of the Inter-Parliamentary Union and the European Parliament, was held in Brussels on 24-26 November 2004, for further details see http://www.europarl.ep.ec/comparl/inta/conference_wto/2004_11/default_en.htm).

\(^3\) Conference of bodies concerned with Community affairs in the Parliaments of the European Community.

At the same time, Parliament issued related implementing provisions\(^1\). These stipulate, among other things, that Members of Parliament who are to attend information meetings or have access to sensitive documents must be the subject of a clearance procedure similar to that undergone by Members of the Council and Members of the Commission (Article 7). Any Member responsible for leaking information may be the subject of judicial proceedings (Article 10).

Problems remain with the poorly developed working relations between the European Parliament and the work groups in the General Secretariat of the Council (e.g. the PSC or the policy units).

**Key positions adopted by the European Parliament on the CFSP and ESDP before and during the Convention (with emphasis on the institutional framework)**

**Foreign policy**

In its resolution of 26 September 2002\(^2\), the European Parliament made the following summary of its political demands with a view to the work of the European Convention:

- A genuine common foreign and security policy can do as much to mould the identity of the EU and its citizens as the internal market and the common currency have done. However the EU needs to achieve a greater efficiency and consistency, as it did, for example, in the case of the common commercial policy.
- The present co-existence of two centres of gravity, namely the High Representative, as spokesman of the common will of the Member States, and the Commission, whose role so far has been narrowly confined to mobilising common resources and instruments, is a source of inefficiency, and the tasks must be merged. The future High Representative/Commissioner for External Relations should be accorded a determining role in daily crisis management and be answerable to both the Council and the European Parliament.
- The common foreign and security policy should be allocated sufficient resources from the Community budget, which is not the case at present. In military operations within the framework of the ESDP, joint costs (e.g. for headquarters or for the transport and equipping of communications facilities) should be borne jointly and also entered in the Community budget. A 'subsidiary budget' held by the Council is unacceptable from the point of view of democratic controls.
- The principle of unanimity must be waived in the decision-making process at Council level, and it must be possible to take decisions by qualified majority. In matters of security and defence policy there should be scope for enhanced cooperation, so as to allow a coalition to be built of those Member States prepared to carry out military Petersberg operations and capable of doing so.
- Instead of the Council Presidency being bound by a simple notification and consultation duty under Article 21, a requirement which it meets more or less as it chooses, it should be answerable in writing on the basis of specific recommendations by Parliament, notably in questions of security and defence policy.

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• The Council's present annual report on the financial implications of decisions taken within the framework of the CFSP does not go far enough, as it does not refer to specific positions taken by the European Parliament.

• Consideration must be given to overcoming the three-pillar structure if aspects of external and internal security are to be dealt with consistently and efficiently. For example, support measures for police operations are currently dealt with simultaneously in all three pillars, in each case with a different mandate, objective and means of funding.

Security policy

In its resolution of 10 April 2003\(^1\), again with a view to the work of the European Convention, the European Parliament summarised its views and positions as follows:

• The Afghanistan conflict showed that Europe is ready and capable politically (Petersberg Conference), economically (reconstruction aid) and militarily (ISAF) of taking on responsibility for international peace missions.

• The USA views its strategic interests as being in Asia rather than in Europe, and only 8% of its forces are now under NATO command. This means that greater military efforts by the EU are required if it wishes to remain a credible actor on the international scene and a free partner of the United States.

• The financing of the European security and defence policy leads to the emergence of shadow budgets which are closed to democratic scrutiny; the planned Armaments, Research and Development Agency must therefore be financed within the European Union's budgetary procedure. In addition, the joint costs of military operations in the framework of the ESDP should be covered by the EU budget (amendment to Article 28 of the TEU).

• Parliament proposes that the European Union be allocated a permanent seat in the UN Security Council as part of a future reform of the United Nations.

• Parliament recognises the competence of national parliaments as regards military expenditure, military procurement and the deployment of national armed forces, whereas the Parliament is responsible for approving the mandate and objectives of any crisis management operation under the ESDP and for the costs incurred by EU joint actions. It therefore proposes that regular bi-annual meetings be held at the invitation of the European Parliament between the competent committee of the European Parliament and representatives of the respective committees of national parliaments in order to develop a common perspective with regard to the definition of a common strategy for the ESDP.

• The information on progress made and decisions taken under the ESDP provided by the Presidency and the European External Representative should be complemented by the obligation to present written reports to Parliament when it so requests.

• In view of the threats posed by terrorism to the civilian population and democratic institutions, a 'solidarity clause' should be introduced into the Treaty to enable Member States to mobilise all the military and civilian instruments necessary to avert such threats.

\(^1\) OJ C 64 E, 12 March 2004, p. 393 (on the basis of the Morillon report on the new European security and defence architecture - priorities and deficiencies, A5-111-2003).
The Treaty establishing a Constitution for Europe

Convention's draft treaty

The Convention's proposals for reform of the European Parliament focus on a new system for allocating seats among Member States and on extending Parliament's powers within the Union's decision-making process. However there are also a number of changes in certain areas of EU external relations which affect the European Parliament, above all in commercial policy. There is basically little change in the formal position of Parliament compared to the current situation and the proposals have been described as 'rationalised intergovernmentalism'.

Foreign and defence policy

Although virtually all the articles relating to the CFSP have been redrafted somewhat verbosely, the actual shift in the balance of power between the institutions can scarcely be described as revolutionary. One of the principal amendments to the provisions of the TEU is the institution of a Union Minister for Foreign Affairs, who will chair the Foreign Affairs Council. The Minister will contribute to the development and implementation of the CFSP. He will take on the external representation role currently carried out by the Presidency and will coordinate Member States' action within international organisations. As he will also be a Member (Vice-President) of the Commission, it is likely that he would seek greater contact with the European Parliament than is the case with the present High Representative for the CFSP.

Although qualified majority voting within the Council is provided for in only a few specific cases, as in the EU Treaty, the constitution introduces an additional case. The Council of Ministers may act by qualified majority on a proposal put to it by the Minister for Foreign Affairs following a specific request from the European Council (Article III-201).

The constitution provides for enhanced cooperation in all areas of the CFSP, and thus cooperation is no longer only possible for the implementation of a joint action or common position, as provided for by Article 27(b) of the EU Treaty. In addition, Article III-213 of the constitution makes it possible to establish 'structured cooperation' in the field of defence. This represents a significant departure from the EU Treaty, where such cooperation was expressly prohibited. The article provides for the possibility of such cooperation by Member States being established in the framework of a future protocol annexed to the constitution.

No use may be made of legislative instruments such as European laws or framework laws, and a direct involvement of the European Parliament is thus ruled out. Analyses of the draft constitution have criticised the fact that the CFSP has been kept (deliberately?) outside the scope

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1 OJ C 169, 18.7.2003; the articles were subsequently renumbered by the Intergovernmental Conference (consecutive numbering of the four parts of the Treaty preceded by Roman number of the relevant part).
3 Th. Oppermann, Eine Verfassung für die EU, Part 1; Deutsches Verwaltungsblatt, Vol 18, September 2003, p. 1173.
of the new division of competences between the EU and the Member States (Article I-11), as is the case for economic and social policy.\(^1\)

**Judicial control**

The Court of Justice continues to have no jurisdiction over the CFSP. However, it does have jurisdiction to rule on proceedings reviewing the legality of restrictive measure adopted by the Council of Ministers against natural or legal persons. The European Court of Justice also has jurisdiction to rule on whether international agreements, including those in the field of the CFSP, are compatible with the provisions of the constitution. The Court's jurisdiction to examine the separation between the CFSP and the Union's other external relations (see Article III-209) was deleted by the Intergovernmental Conference.

**International agreements**

The Union's negotiations on international agreements are regulated in a single article of the draft constitution (Article III-227), from which only agreements in the field of monetary policy are exempt. The Minister for Foreign Affairs is responsible for negotiating agreements which exclusively or principally relate to the common foreign and security policy. Article III-227 provides for the Council of Ministers to appoint the negotiator or leader of the EU negotiating team, depending on the subject of the future agreement.

The role of the European Parliament is also strengthened, as its consent is required for all agreements to which the legislative process applies. Under Article 300(3) of the EC Treaty, Parliament's consent is only necessary when, for instance, an agreement requires the amendment of a legislative act adopted under the co-decision procedure.

**Commercial policy**

Significant progress was made in the draft treaty with regard to parliamentary scrutiny. The European Parliament, which had no say in commercial policy under the EC Treaty, is now involved in the decision-making process. The legislative procedure (the current co-decision procedure) is thus applied to the adoption of all autonomous acts of a legislative nature in the field of commercial policy. Similarly, all trade agreements have to be approved by Parliament, and the Commission must now keep Parliament fully informed of ongoing negotiations on trade agreements.

The parallel between the legal bases and decision-making procedures for internal and external affairs has been maintained with unanimity being required in the Council if this is also still necessary for internal matters.

**Development policy**

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Under Article 179 of the TEC, it is the Council that adopts the measures necessary to further development policy objectives, for instance in the form of multiannual programmes. The codecision procedure applies. As the common development policy is complementary to the policy carried out by Member States, regional agreements such as the ACP Convention take the form of ‘mixed agreements’ to which both the Community and the Member States are signatories. They therefore have to be ratified by all signatories States under their respective constitutional procedures.¹

Under the draft treaty produced by the Convention, the Union's competence for development cooperation and humanitarian aid was extended to include carrying out activities and conducting a common policy, provided that the exercise of that competence does not result in Member States being prevented from exercising theirs (Article I-13(4). Under Article III-219 the normal legislative procedure applies (codecision with qualified majority voting).

'Pre-Naples'

The improvements proposed by the Italian Presidency in the run-up to the Naples meeting of Foreign Affairs Ministers in late November 2003² included the following:

- **ECHR**: Instead of ‘…the Union shall seek accession…’ it was proposed that the text should read 'the Union shall accede to the European Convention for the Protection of Human Rights' (qualified majority voting would apply to this issue).
- **Judicial control**: Acts adopted by the European Council should be subject to judicial control by the Court of Justice.
- **CFSP**: Introduction of qualified majority voting for all proposals by the Union Minister for Foreign Affairs in the field of the CFSP but this proposal was later rejected by the Intergovernmental Conference.
- **Revision of the treaties**: The Italian Presidency stressed its commitment to more flexible arrangements for revision of the treaties. With regard to Article 24(4) on the move from unanimity to qualified majority, the Presidency maintained its so-called nihil obstat proposal, according to which the national parliaments would be given six months' time to raise an objection. After obtaining the consent of the European Parliament, the European Council would act by unanimity. The Presidency also proposed that in the case of provisions of Part III of the Treaty on common policy requiring unanimity in the Council, the European Council could rule, by unanimous decision, that the Council should move to qualified majority voting. These amendments could be made without an intergovernmental conference, but would still need to be ratified by the Member States.

*Initial working document and subsequent proposals by the Irish Presidency*

The Irish Presidency drew up an initial working document for the meeting of contact points on 4 May 2004 in Dublin, which made reference again to many 'pre-Naples' proposals³.

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¹ Most recent ACP Convention: Cotonou Agreement which came into force on 1 April 2003.
² Cf. IGC 52/03 and IGC 52/03 ADD1.
³ IGC 73/04.
The amendments proposed by the Presidency relating to external relations included the following:

• Article I-7 would provide for recognition of the European Convention for the Protection of Human Rights by the Union.

• It was proposed that under Article I-23 an 18-month team presidency would be introduced for all Council formations, with the exception of the Foreign Affairs Council, with the presidency of each Council formation being rotated on a six-month basis between the Member States forming the team.

• With regard to Article III-49, it was proposed that in the framework of the area of freedom, security and justice, use of European laws for the issuing of sanctions would be restricted to the fight against terrorism (the previous text had provided for a more extensive use by making specific reference to organised crime and trafficking in human beings).

• It was proposed that under Article III-197(3) the functioning of the European External Action Service would be established by a European Decision of the Council on a proposal from the Union Minister for Foreign Affairs.

• Under Article III-217, the principle of unanimity for negotiations in the field of services and intellectual property would be extended to foreign direct investment (the Naples text mentioned only services involving the cross-border movement of persons).

These proposals were modified only slightly in the subsequent negotiations and were finally submitted along with the other proposed Treaty changes to the Intergovernmental Conference on 17-18 June 2004.

Outcome of the Intergovernmental Conference

Of 18 June 2004 the Intergovernmental Conference wound up its deliberations by adopting the Treaty establishing a Constitution for Europe. Subject to its entry into force after ratification by the Member States, the Treaty will implement virtually all the changes described above as far as Parliament is concerned. Most of the modifications compared to the draft produced by the Convention affect Parliament's role in the CFSP only indirectly. It is worth noting that Parliament now has the opportunity twice a year to debate progress in implementation of the CFSP, including the ESDP (Article III-304). In general terms, the fact that the ESDP has been fully integrated into the CFSP means that the EP is now fully consulted on the ESDF. This is particularly important in view of the new provisions on structured cooperation (including qualified majority voting by participating Member States).

It is difficult to speculate at this stage about the impact that the new Treaty will have on the position of Parliament in foreign policy. A crucial element will be that in CFSP matters (including the ESDP) the European Foreign Minister will replace the Commission as Parliament's opposite number in discussions. Moreover, the Intergovernmental Conference text now talks of proposals made by the Minister 'with the Commission's support' (Article III-299 (1)), whereas the Convention referred to 'joint proposals' (Article III-194 (2)). A great deal will

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1 Cf. IGC 76/04 and IGC 79/04.
2 IGC 81/04 and IGC 85/04.
3 IGC 87/1/04/rev.1 of 13 October 2004; the numbers of the articles are different from those allocated by the Convention (consecutive numbering of the four parts of the Treaty preceded by Roman number of the relevant part).
therefore depend on how close the Minister feels his ties are with the Commission and what importance he attaches to his duty to consult Parliament. Under Article I-28(4) the Minister is bound by Commission procedures in so far as he exercises his responsibilities within the Commission to the extent that this is compatible with his CFSP duties.

It also remains to be seen how closely the Council involves the Commission in the CFSP. If the Foreign Minister and possibly also the future President of the European Council were to dissociate themselves from the Commission, it would undoubtedly also erode Parliament's influence. The Intergovernmental Conference, for instance, decided that the Council should establish the European External Action Service after obtaining the consent of the Commission, whereas the Convention had made this a joint matter for the Commission and Council. The phrase 'without prejudice to the rights of the European Parliament' has also been omitted from the Intergovernmental Conference's text.

It will be important to keep a close watch on the new provision relating to the CFSP budget; under Article III-313 Parliament is merely consulted when the Council needs rapid access to appropriations in the Union budget for urgent financing of initiatives in the framework of the common foreign and security policy, and in particular for preparatory activities (European decision).

The Protocol on the role of the national parliaments in the European Union allows interparliamentary conferences on CFSP issues to be arranged on the initiative of COSAC (Article 10). This will be a way of supporting Parliament's efforts to strengthen the parliamentary dimension vis-à-vis international organisations; on the other hand, differences of view with the national parliaments and their transnational representations cannot be ruled out and could entail the risk of inadequate parliamentary control.

In its draft opinion of 24 November 2004 for the report of the Committee on Constitutional Affairs, the Foreign Affairs Committee considers it necessary that the Commissioner for External Relations and the High Representative for CFSP should already apply new standards by fully informing and consulting the European Parliament on all questions of CFSP and ESDP.

**Brief evaluation**

Since the attacks of 11 September 2001, there has been a general improvement in communication between the Council (in particular the High Representative) and the European Parliament. As a result, new kinds of problems have arisen, e.g. conflicts between the Foreign Affairs Committee and the EP plenary or other committees, which fear that the Foreign Affairs Committee could monopolise relations with the Council and Commission in this field.

A recent analysis of the EP's role in foreign policy summarises the situation as follows:

> In general, the EP actively seeks information instead of waiting for its delivery and this corresponds to its pro-active strategy of fully exploiting the legal provisions of CFSP. Its existing budgetary powers are an important tool for enhancing its influence and have been used by the EP to obtain greater access to

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information and increase its role as an effective political interlocutor to the Council. The link between
civilian and military elements of crisis management and the need to further combine cross-pillar resources
for effective external action might strengthen the EP’s role in the future [...]¹.

In a study drawn up for the European Parliament in late 2002 (see 'Further reading'), the authors
make the following final evaluation of the influence of national parliaments on foreign and
defence policy:

..., the relative weakness of national parliamentary institutions in foreign and security politics cannot be
overlooked. In view of the different stages of the policy cycle, it can be concluded that the involvement of
national parliaments (of the EU Member States) in foreign and defence politics remains weak and for the
most part reactive. Though some parliaments have considerable competences in the decision on the
deployment of forces (D, S, DK) and are engaged in the preparation of decisions (DK, S) as well as in
control and scrutiny, their involvement in foreign and defence policy has usually an ex-post character.
National parliaments in general are able to exercise oversight a posteriori especially via their budgetary
competences. But they have neither developed into an 'equal' player nor into a forum for diplomatic
initiatives and international negotiations.

Are there winners or losers among the national parliaments? The gains might be larger for some
parliaments than for others, but winners and losers are broadly distributed and the struggle for influence
still continues in all countries. The strongest parliament in foreign and defence politics is noticeably the US
Congress. (p. 260)

Questions to the Council and Commission and statements on foreign policy issues now take up a
substantial proportion of the agenda for plenary sittings of the European Parliament. In this
context, the European Parliament can on the one hand be described as exercising significant
political influence on the shaping and scrutiny of the CFSP and ESDP. On the other hand, the
quotation from the above study does not necessarily inspire optimism with regard to the future
development of the 'parliamentary dimension' in this policy area. The following section of this
study describes the corresponding competences of selected national parliaments for the purposes
of comparison².

¹ Diedrichs, The European Parliament in CFSP: more than a marginal player?, The International Spectator 2/2004,
p. 46.
² Cf. Diedrichs, op. cit.
Part II: National parliaments

The parliaments of EU Member States

a) Belgium

Under Article 167 of the Constitution, the King manages international relations and commands the armed forces. In exercising these powers the King requires the countersignature of the minister responsible. The two chambers of parliament are subordinate to the government and have traditional powers of parliamentary scrutiny (written and oral questions, hearings, motions in Plenary or in committee).

Article 167(1) of the Constitution says that the King determines the state of war and the cessation of hostilities and notifies the Chambers as soon as State interests and security permit. Parliament is not responsible for committing troops but the Senate has set up a special committee for participation in foreign operations. No such body exists in the Chamber of Deputies as Members prefer the traditional methods of parliamentary scrutiny.

A significant amendment to the Constitution was made on 5 May 1993 creating a special section of the constitution dealing with international relations, Title IV, Articles 167-169. On the same date, two laws were enacted along with two agreements on cooperation between the federal government, the communities and the regions. It is worth noting that the communities and regions have powers to conclude international agreements in areas within their jurisdiction. However the federal government has a right of oversight to ensure the coherence of Belgium's foreign policy.

The King is responsible for concluding agreements. Following the constitutional amendments, however, all international agreements now require the assent of both chambers (Article 167 (2)). Draft bills relating to the approval of treaties submitted to the Chambers on the King’s initiative, are introduced to the Senate and afterwards transmitted to the Chamber of Representatives (Article 75 (3)) and subsequently have to be approved by both chambers (Article 77 (1)). From a legal point of view it is important that assent is not regarded as the exercise of legislative power, in other words no substantive law is involved, but rather the exercise of the highest right of oversight by the Chambers whereby they empower the King to commit the Belgian State through ratification.

The only options available to the Chambers are to approve the Treaty as a whole or to withhold their approval.

Furthermore, under Article 168 of the Constitution the federal government is required to inform the Chambers from the beginning of negotiations concerning any revision of the treaties establishing the European Community. The agreement has to be submitted to both Chambers for signature. The government has given a commitment that this procedure will also apply to agreements not relating to the EU, in particular to agreements transferring competences to a supranational authority.
b) Czech Republic

The Parliament's role in shaping foreign relations consists mainly in its involvement in bringing international treaties into force. Treaties negotiated by the Government are adopted by Parliament just like legislative bills, before being ratified by the President.

Under Article 49 of the Czech Constitution of 16 December 1992, the consent of both chambers is required for international treaties governing the rights and duties of persons or concerning alliances, peace agreements or other 'political' agreements, agreements on membership of an international organisation, agreements of an economic nature and on other matters to be settled by the law.

Article 10 expressly states that in conflicts between national and international law the latter takes precedence.

Under Article 10a, certain state powers can be transferred to international organisations or institutions. This requires parliamentary approval unless the Constitution specifies that a referendum must be held. The transfer of powers must be approved by three-fifths of deputies and three-fifths of the senators present.

Article 10b stipulates that the Government must inform the Parliament regularly and in advance of any obligations arising from the Czech Republic's membership of an international organisation or institution. Under Article 10b(3), a law governing relations between the two chambers in terms of foreign relations may entrust the task of issuing opinions on resolutions by an international organisation or institution to a joint body of both chambers.

Articles 39 and 43 of the Constitution set out the Parliament's and Government's powers with regard to the dispatch of troops.

The Czech Parliament's Foreign Affairs Committee has three sub-committees, one of which is responsible for economic relations. There are also seven delegations, which deal with relations with the European Parliament, the WEU, the Central European Initiative, the Interparliamentary Union, NATO, the Council of Europe and the Parliamentary Assembly of the OSCE.

c) Denmark

According to Section 19(1) of the Danish Constitution of 5 June 1953, the King (i.e. the Government) acts on behalf of the Realm in international affairs. The actions of the King (Government) are restricted by Parliament in the case of territorial changes and obligations that require parliamentary involvement or that are otherwise of importance. Only with Parliament's consent can the King terminate an international treaty that initially required parliamentary approval. International treaties must first be submitted to the Foreign Affairs Committee and then adopted in plenary by means of a resolution. Submission of a treaty requires the personal presence of the Foreign Minister, who must answer the committee members' questions. The Government is not bound by the committee's opinion, but this will indicate the level of support.
the Government will receive in the Folketing. Submission must take place well before a decision on foreign policy.

With regard to EU affairs, the Government receives a mandate from the European Affairs Committee before negotiations at EU level. The matter is dealt with first by the Foreign Affairs Committee and then by the European Affairs Committee. At present there is no support for the holding of joint meetings of these two committees dealing with EU affairs. Reports on meetings of the Council of Ministers are submitted first to the one committee and then to the other, as above.

Section 19(2) states that, except in the case of an armed attack on Denmark or Danish forces, the King cannot use military force against a foreign state without the consent of the Parliament. Any measure of this kind must be submitted to the Parliament immediately. Under Section 19(3), it is Parliament that appoints the members of the Foreign Affairs Committee, which the Government must consult prior to the making of any decision of major importance to foreign policy.

Law No 54 of 5 March 1954 on the Foreign Affairs Committee sets out its responsibilities. The committee has 17 members and the same number of substitutes. It is to be kept informed by the Government about foreign affairs and has the right to summon government ministers to provide information. The fact that Denmark has more often than not had minority governments in recent times has given the committee a great deal of influence. Under Section 2 of the Law, however, it is also the role of the committee to hold discussions with the Government on foreign affairs. Section 4 of the Law covers confidentiality.

Members of the Foreign Affairs Committee can also submit written questions to the Government, which are answered in Parliament.

Under Section 20(1), powers vested in the Realm by the Constitution may be delegated, in accordance with a statute, to international authorities set up by mutual agreement with other states for the promotion of international law and cooperation. This requires a 5/6 majority of members of the Parliament. If this majority is not obtained, but the majority usually needed for passing legislation is obtained, the bill is submitted to the electorate in a referendum, in accordance with the rules.

d) Germany

The shaping of foreign policy falls within the competence of the executive branch. Under Article 45a(1) of the Basic Law (GG), the Bundestag (lower house) is responsible for appointing a Committee on Foreign Affairs.

Under Article 59(2) GG, treaties that regulate the political relations of the Federation or relate to subjects of federal legislation require the consent of the Bundestag and the Bundesrat (upper house) in the form of a federal law.

The Bundestag's role includes:
the ratification of international treaties (political or peace treaties (Article 115 GG)). As regards political treaties, i.e. those that concern a position of authority over another state, the legislature has a say only in 'fundamental normative areas'. The Government's competence to carry out individual foreign policy measures remains unaffected. In the case of ratification, the Bundestag has limited influence on the whole on whether consent or refusal is given. Administrative agreements do not require ratification;

- the transfer of sovereign powers (Articles 23 and 24 GG) and the declaration of a state of defence (Article 115a GG). According to the case law of the Federal Constitutional Court, the Bundestag is also responsible in principle for the foreign deployment of the German armed forces, which is subject to a parliamentary resolution;

- indirectly influencing policy by exercising supervisory powers, particularly regarding the budget (in terms of equipping the armed forces and allocating loans for development aid and export promotion);

- the monitoring of the Secret Service through the Parliamentary Control Committee;

- influencing government policy in debates on foreign affairs and obtaining information at question time.

Role of the Committee on Foreign Affairs

This covers recommendations for decisions and opinions on parliamentary bills (motions from political groups and EU documents) and the committee's own work on key issues or current developments, consultation on the foreign deployment of the armed forces, fostering relations with parliaments abroad, election observation and fact-finding missions. Another important task is obtaining information, especially about government activity. The committee's work also includes MPs' initiatives in the field of human rights and humanitarian aid.

e) Estonia

Under the Constitution, the Estonian Parliament (Riigikogu) is responsible for treaties of the Republic of Estonia which amend state borders, amend Estonian laws, by which the Republic of Estonia joins international organisations, or by which the Republic of Estonia assumes military or assets obligations; or where ratification is prescribed (Article 65(4) and Article 121).

Under Article 65(11) Parliament is also responsible for presenting declarations to foreign states and international organisations. On proposal by the President of the Republic, Parliament can declare a state of war and order mobilisation (Article 65(15)). Parliament also decides on the utilisation of the Defence Forces to fulfil Estonia's international obligations. (Article 128(1)).

Under the law governing international relations, paragraph 5(1), Parliament debates the foreign policy priorities and results at least twice a year. Subparagraph 2 of the law says that the Foreign Affairs Committee has to be informed regularly on the implementation of foreign policy and must discuss the government report on the main objectives of foreign policy and submit a report to the Plenary.
f) Greece

Under Article 28(2) of the Constitution, authorities provided by the Constitution may be vested in agencies of international organisations by treaty or agreement. A majority of three-fifths of the total number of Members of Parliament is required to vote the law sanctioning such a measure.

Article 35 says that no act of the President of the Republic is valid unless it has been countersigned by the competent Minister.

Under Article 36(1) it is the President of the Republic who can declare war, conclude treaties of peace, alliance or economic cooperation. Article 36(2) says that ratification is a matter for the Parliament.

Under Article 45, the President of the Republic is the commander-in-chief of the nation's armed forces, the command of which is exercised by the Government.

In case of war or imminent threat against national security, as well as in case of an armed coup, Article 48 requires Parliament to enact the requisite measures by a three-fifths majority; if the Parliament cannot be convened, the measures concerned are taken by presidential decree issued on the proposal of the Cabinet. The decree must be submitted to Parliament for approval, by a simple majority.

Article 82(4) of the Constitution provides for the creation of a national council for foreign policy in which all parties and experts are represented.

The Parliament has a Foreign Affairs Committee, a Defence Committee and a Committee for European Affairs.

g) Spain

According to Article 10 of the regulations governing public administration, the Council of Ministers must authorise the negotiation and signing of international treaties, agreements and conventions and accession to them.

Under Article 93 of the Constitution, treaties may be concluded by means of an organic law, by which powers derived from the Constitution are vested in an international organisation or institution. Article 94(1) states that this requires the prior authorisation of the Spanish Parliament (the Cortes Generales) in the following cases: treaties or agreements of a political or military nature, treaties affecting the territorial integrity of the State or the fundamental rights or duties under Title 1 of the Constitution, treaties or agreements that imply financial liability for the Public Treasury and treaties or agreements involving the amendment or repeal of a law or requiring legislative measures for their execution.

Under Article 94(2), Congress and the Senate must be informed immediately following the conclusion of any other treaties or agreements.
Under Article 155(1) and (2) of the Rules of Procedure of Congress, the Government must obtain parliamentary authorisation by submitting all documents concerning the treaty in question, including the reservations and statements that the Government wishes to voice. The procedure for authorisation in Congress is the same as the general legislative procedure under Article 56(1).

h) France

According to Article 52 of the Constitution, the President is responsible for negotiating and ratifying international treaties and agreements.

Under Article 53, peace treaties, commercial treaties, treaties or agreements regulating international relations, those committing the finances of the State, those that modify legal provisions, those relating to the status of persons, and those that involve the cession, exchange or addition of state territory, may be ratified or approved only by virtue of an Act of Parliament, which is where the National Assembly becomes involved.

Under Article 54, the President of the National Assembly or Senate, or 60 deputies or senators, can appeal to the Constitutional Court regarding the constitutionality of an international commitment. In the event of unconstitutionality, authorisation to ratify or approve the international commitment in question may be given only after the Constitution is amended.

Under Article 88(4), the Government must lay before the National Assembly and the Senate any legislative proposal of the European Communities or the European Union, on which they will then adopt a resolution.

i) Ireland

Under Article 29(4) of Ireland's Constitution, the executive power of the State in connection with its external relations is exercised by the Government, in accordance with usual international practice and the procedures of its respective treaty partners in the case of multilateral agreements. A peculiarity of the Constitution is that it lists a series of treaties on European integration (saying that the State may become a member of the European Coal and Steel Community, or that the State may ratify the Treaties of Maastricht, .... Amsterdam... Nice and so on). The State may also exercise certain options, for instance it may approve the Treaty of Nice subject to the prior approval of both Houses of Parliament.

International agreements involving a charge upon public funds can be concluded only with the approval of the Parliament.

A government representative is an ex-officio member of the Foreign Affairs Committee and has a casting vote.
Under the Rules of Procedure of the Parliament, the foreign affairs committees of the lower house and the Senate deliberate a jointly on matters falling within the jurisdiction of the Foreign Ministry. This includes discussion of European Community legislation.

j) Italy

Under Article 87 of the Constitution, the President of the Republic is responsible for the ratification of international treaties, for which, in the circumstances given in Article 80, the prior authorisation of both parliamentary chambers is required.

Under Article 80 of the Constitution, the two chambers authorise by means of a law the ratification of international treaties of a political nature, or those which call for arbitration or legal settlements or entail changes to national territory or financial burdens or changes in the law.

(An interesting article by Professor Galeotti - 'potere estero e divisione dei poteri nella costituzione italiana' - highlights the issue of Parliament's limited powers, which mean that in most cases it is presented with faits accomplis and is unable to control the Government effectively.)

k) Cyprus

The Foreign Affairs Committee is responsible for discussing the ratification of international agreements and for general scrutiny of the government's conduct of foreign policy. The Committee on EU Affairs plays a corresponding role in relation to the EU, in particular the harmonisation of national and EU legislation.

Major foreign policy issues are discussed in Plenary. Cyprus is a presidential democracy (the President is directly elected by the people and is also the Head of Government). Even parliamentary resolutions adopted unanimously are not binding on the government. Written questions have to be answered by the government within a period of thirty days.

Under Article 183 of the Constitution, the Government is responsible for proclaiming a state of emergency in case of war or other public danger threatening the life of the Republic; the House of Representatives may object to any such proclamation. By virtue of its budgetary powers, Parliament has the authority to approve or reject military expenditure.

l) Latvia

Under Latvia's Constitution (Satversme) the planning and implementation of foreign policy is a matter for the Government and the Foreign Minister in particular.

The Foreign Affairs Committee of the Parliament (Saeima) may submit proposals for legislation. It discusses foreign policy and initiatives of the Foreign Minister but its deliberations are preceded by a debate in plenary on the relevant issues.
Under Article 73 of the Constitution, laws concerning the declaration and commencement of war, peace treaties, as well as international agreements may not be submitted to national referendum. Matters of this kind are dealt with by the Foreign Affairs Committee and submitted to the Presidium of Parliament.

The President is commander-in-chief of the Armed Forces (Article 42).

Article 43 states that the President may declare war on the basis of a decision of the Parliament. The President has the right to take whatever steps are necessary for the military defence of the State but is required to convene the Parliament without delay, which shall decide as to the declaration and commencement of war (Article 44).

If the State is threatened by an external enemy, or an internal insurrection, the Government has the right to proclaim a state of emergency and must inform the President within twenty-four hours and the President in turn must present the decision to the Parliament (Article 62).

The Foreign Affairs Committee holds joint meetings with the EU Committee and the Defence and Internal Affairs Committee.

The task of the Committee on EU Affairs is to advise on the compatibility of Latvian law with EU legislation. This committee also deliberates on Latvia's position before discussions take place in EU bodies.

All international agreements relating to matters that may be decided by the legislative process require ratification by the Parliament (Article 68). Under Article 41 of the Constitution, the President of the Republic implements the decisions of the Parliament concerning the ratification of international agreements.

Under Article 68, international agreements transferring State powers to international bodies require ratification by Parliament in sittings at which at least two-thirds of the members of the Parliament participate, decisions being taken by a two-thirds majority. Membership of the EU is subject to a national referendum proposed by Parliament (derogation from Article 73). Substantial amendments to membership of the EU are also decided by referendum if at least half the Members of Parliament so request.

m) Lithuania

Under the Constitution approved by referendum on 25 October 1992, the President of the Republic is responsible for Lithuania's foreign policy, which he conducts jointly with the government under Article 84. The President signs international agreements, which have to be submitted to the Parliament (Seimas) for ratification. Under Article 67 of the Constitution, Parliament not only has the power to ratify or denounce international treaties but it can also consider other issues of foreign policy.

Under Article 138, the Parliament can ratify international treaties of the Republic of Lithuania which concern political cooperation with foreign countries, mutual assistance, or treaties related
to national defence; and the renunciation of the utilisation of, or threatening by, force, as well as peace treaties; as well as the stationing of the Armed Forces of the Republic of Lithuania on the territory of a foreign state.

In the event of an armed attack which threatens the sovereignty of the State or territorial integrity, the President of the Republic of Lithuania takes a decision concerning defence against such armed aggression, imposes martial law, declares mobilisation, and submits these decisions to the next sitting of the Parliament for approval. These powers are set out in Article 142, which requires, in the period between sessions, the President to immediately convene an unscheduled session of the Parliament.

Under Article 142, it is a matter for Parliament to impose martial law, announce mobilisation or demobilisation, and adopt decisions to use the Armed Forces in defence of the homeland or for the fulfilment of Lithuania's international obligations.

Article 68 of Parliament's Statute defines the tasks of the Foreign Affairs Committee as follows:

Drafting conclusions relating to the ratification of international agreements or other aspects of foreign policy, dealing with foreign policy legislation, exercising parliamentary scrutiny of the Ministries for foreign policy and submitting recommendations or proposals on foreign policy.

n) Luxembourg

Under Article 37 of the Constitution, the Grand Duke concludes treaties. These do not come into effect until they have been sanctioned by law. Secret treaties are specifically prohibited by the Constitution. The Grand Duke also enacts the regulations and orders necessary for carrying the treaties into effect. Decisions relating to the territory of the Grand Duchy cannot be effected except pursuant to a law.

The Grand Duke commands the armed forces; he declares war and the cessation of hostilities after having been authorised by a vote in the Chamber.

Under a Law of 27 July 1992, the Foreign Affairs Committee and the Foreign Trade Committee of the Parliament must be consulted before any government decision concerning the participation of Luxembourg in peace-keeping operations under the auspices of international organisations. The government decision itself must be submitted to the Council of State and the Conference of party leaders in Parliament (Article 2(3) of the Law of 27 July 1992).

There is also an annual debate in the plenary winding up a statement by the Foreign Minister on Luxembourg's foreign policy.

o) Hungary

Under Article 30A of the Hungarian Constitution of 20 August 1949, the President of the Republic concludes international treaties in the name of the Republic. The Government, which, according to Article 35, should participate in the development of foreign policy, is responsible
for concluding treaties in the name of the Hungarian Government. If the subject of the treaty falls within its legislative competence, prior ratification by the Parliament is needed for the conclusion of the treaty.

Article 19(3)(f) states that it is the role of the Parliament to conclude international treaties of outstanding importance to Hungary's foreign relations.

Under Article 19(3)(g), the Parliament is responsible for declaring a state of war and the conclusion of peace. Article 19(3)(h)(i)(j) stipulates that it is also responsible for declaring a state of national crisis, establishing the National Defence Council, declaring a state of emergency and ruling on the deployment of the armed forces. A two-thirds majority of members of the Parliament is required for the decisions mentioned under Article 19(3)(g)(h)(i)(j).

Article 28C explicitly states that referendums may not be held on obligations set forth in valid international treaties.

Under Standing Order No 28, it is the task of the Parliament to appoint committees, including on foreign relations and defence, following its constituent sitting.

According to Standing Order No 122, the committees dealing with foreign relations must present their position with regard to a request from the Government for authorisation to sign an international treaty before the treaty can be concluded. The committees in question issue an opinion and the Government must submit a proposal for a decision on the ratification of an international treaty or the entry into or withdrawal from an international organisation.

Standing Order No 123 stipulates that the Government must submit a bill on the publication of an international treaty, on which the relevant committees make a recommendation.

p) Malta

The Foreign and European Affairs Committee consists of nine members, five from the government party and four from the opposition. The Foreign Minister has a permanent seat on the committee. The chairman is appointed by the Speaker of Parliament. From time to time the committee chairman reports to the Plenary on the committee's discussions. Standing Order 120 F gives the Foreign Affairs Committee a specific power of scrutiny with regard to measures discussed in the European Council of Ministers, in particular the Common Foreign and Security Policy, all legislative proposals and non-legislative procedures in general.

Parliament holds an annual foreign policy debate in connection with discussion of the Foreign Ministry's draft budget. It is significant that the Maltese Members of the European Parliament may participate in the work of the Foreign Affairs Committee but do not have the right to vote.

q) Netherlands

Under Article 91 of the Constitution, the Kingdom cannot be bound by treaties without the prior approval of the States General (bi-cameral system). The cases in which approval is not required
must be specified by Act of Parliament. The manner in which approval is granted has to be laid down by Act of Parliament, which may provide for the possibility of tacit approval. Any provisions of a treaty that conflict with the Constitution may be approved by the Chambers of the Parliament only if at least two-thirds of the votes cast are in favour.

Article 96 of the Constitution says that a declaration that the Kingdom is in a state of war shall not be made without the prior approval of the Parliament unless consultation with Parliament proves to be impossible as a consequence of the actual existence of a state of war. Such a decision has to be taken by the two Chambers of the Parliament in joint session. The same applies by analogy to a declaration that a state of war has ceased.

Article 100 requires the government to inform the States General in advance if the armed forces are to be deployed or made available to maintain or promote the international legal order. This includes the provision of humanitarian aid in the event of armed conflict. These provisions do not apply if compelling reasons exist to prevent the provision of information in advance.

As a rule, the ratification procedure for international agreements begins in the Senate after signature by the Government. If ratification is specifically required, the agreement goes first to the Second Chamber and then to the Foreign Affairs Committee of the Senate. If the agreement entails deployment of troops, the Defence Committee must also be involved.

r) Austria

Under Article 65 of the Federal Constitution, the Federal President concludes treaties. Political treaties, and others in so far as their contents modify or complement existent laws, may only be concluded with the sanction of the House of Representatives (Nationalrat) (Article 50). The Foreign Affairs Committee is usually consulted in advance. Any State treaty that regulates matters that fall within the jurisdiction of the Länder, or their legislative or executive powers, also has to be approved by the Senate (Bundesrat). Under Article 67 a recommendation by the Federal Government or the Federal Minister authorised by it is systematically required. The Federal President can authorise the Federal Government or the competent members of the Federal Government to conclude certain categories of treaties (government, jurisdictional or administrative agreements).

The House of Representatives and the Senate meet, together building the Federal Assembly, for the adoption of a resolution on a declaration of war (Article 38). Under Article 2(1) of the Constitutional law on cooperation and solidarity the Federal Government and the Grand Committee of the House of Representatives must agree on the deployment of Austrian units or individuals abroad for participation in peace-keeping measures, including the promotion of democracy, the rule of law and the protection of human rights under the auspices of international organisations, the OSCE or implementing EU decisions under the CFSP or humanitarian aid and disaster aid measures.

The Federal Government submits an annual report on foreign policy to the House of Representatives and the Senate. Following a modification of the Rules of Procedure in 1996, this report is subsequently debated in the Foreign Affairs Committee of the House of Representatives. Debates on current foreign policy issues are also held in the Foreign Affairs
Committee of the National Security Council, which was set up by the Federal law of November 2001.

s) Poland

Under Article 146(1) of the Polish Constitution of 2 April 1997, the Council of Ministers conducts Poland's internal affairs and foreign policy, exercises general control with regard to relations with other states and international organisations, concludes international agreements requiring ratification and accepts or renounces other international agreements (Article 146(4)(9) and (10)).

According to Article 89(1), the ratification or termination of an international agreement requires consent by statute if the agreement concerns the following:

1) peace, alliances or political or military treaties
2) membership of an international organisation
3) considerable financial responsibilities on the State

Under Article 89(2), the President of the Council of Ministers must inform the Sejm (the lower house) of any intention to submit for ratification by the President of the Republic any international agreement not requiring parliamentary consent.

Article 90(2) states that a statute granting consent for the ratification of an international treaty that delegates the competence of state bodies to an international organisation or institution requires a two-thirds majority in the Sejm in the presence of at least half the statutory number of members (460, as laid down by Article 96). The same majority is needed for votes in the Senate, which has 100 members (Article 97). Consent for ratification may also be granted by referendum (Article 90(3)). Any decision as to which procedure to follow to grant consent is taken by the Sejm in a vote requiring an absolute majority in the presence of half the statutory number of deputies.

The competence of the parliamentary committees is specified in the Standing Orders of the Sejm. Any bill passed by the Sejm is then submitted to the appropriate committee in the Senate.

Under Article 133(3), the Polish President must cooperate with the Prime Minister (President of the Council of Ministers) and the portfolio minister in the field of foreign policy.

t) Portugal

Under Article 161 of the Constitution, Parliament has the power to approve international conventions, specifically treaties for Portugal's membership of international organisations, treaties of peace, for defence or to rectify boundaries, or concerning military matters, and any international treaties on matters within the exclusive powers of the Government. Only Parliament can authorise the President of the Republic to declare war or make peace.

Under Article 163, the Assembly of the Republic has the power to monitor the involvement of Portuguese military contingents abroad. This clause also covers Law No 46/2003 of 22 August
2003 on parliamentary monitoring of the deployment of armed forces abroad, humanitarian and evacuation missions, peace-making and peace-keeping operations, missions to restore peace and crisis-management operations, as well as operations in the military sphere in fulfilment of Portugal's international obligations.

The government decision relating to military operations abroad is submitted to Parliament for discussion and further monitoring. Where the nature of the involvement so requires, notification of the decision may be made after a security interval depending on the nature of the operation. Parliament exercises scrutiny of Portuguese military deployment abroad through its Defence Committee.

The government is required to submit a detailed six-monthly report to Parliament on operations abroad.

u) Slovenia

As far as external relations are concerned, Slovenia's Constitution of 28 December 1991 refers only to the power to conclude international treaties. This is a matter for the Parliament (Article 153). Ratified and published treaties take precedence over laws and are directly applicable. Parliament's key role lies in its responsibility for ratification and its general legislative powers. Parliament has sole responsibility for establishing guidelines for foreign policy which are binding on the government. The government has no power to enter into obligations that go beyond the mandate conferred on it by Parliament.

The government is bound to inform and consult Parliament. The Foreign Affairs Committee is responsible for the whole area of foreign policy. It delivers opinions on the negotiating strategy proposed by the Government for the conclusion of international treaties as well as opinions on ratification.

Under the Constitution, it is the Parliament that is responsible, on proposal from the Government, for declaring a state of emergency or war or deciding on the deployment of troops. A special law on national defence regulates detailed matters of competence. A declaration of war is permissible only in the event of an attack on Slovenia or its allies. If the country is under threat, the Parliament can order mobilisation. In such a case, it is the Defence Committee which is responsible for the deliberations. In peacetime the Government decides on the cooperation of the armed forces in connection with Slovenia's international obligations. The Foreign Affairs Committee is informed. The President of the Republic is the commander-in-chief of the armed forces. If Parliament is unable to meet in an emergency, the President is also authorised to declare a state of emergency, war or mobilisation.

Cooperation between Parliament and the Government in EU matters is governed by a specific law. Under this law and an associated regulation, the responsibility for discussion of EU foreign and security policy is transferred to the Foreign Affairs Committee. Insofar as matters in this sphere fall within Parliament's legislative competence, it is also responsible for delivering opinions. At least once a year there is a general debate on EU matters. Individual topics are dealt with by the Committee for EU Affairs unless they fall within the remit of the Foreign Affairs Committee. (Both committees meet behind closed doors and only their decisions are published).
If the government feels that it is impossible or not in the interests of Slovenia to implement Parliament's decisions, it is obliged to inform Parliament of any government decision departing from Parliament's guidelines.

v) Slovakia

Under Article 102 of the Constitution, the President represents the Slovak Republic outwardly and concludes and ratifies international treaties. He may delegate this power to the Government. He acts as supreme commander of the Armed Forces, declares war on the basis of a decision of the Parliament (National Council of the Slovak Republic), if the Slovak Republic is attacked or as a result of commitments arising from international treaties, and concludes peace treaties.

On the basis of a Government decision, the President can order mobilisation of the Armed Forces, declare a state of war or martial law, as well as declare an end to such situations.

Under Article 119, the Government decides on international treaties in so far as the President has delegated this power to it and deals with the fundamental questions of foreign policy. The Government also takes the decision on any proposal to declare war, mobilise the Armed Forces, declare martial law or declare or end a state of emergency. The Government also decides on the sending of troops for humanitarian aid missions, manoeuvres or peacekeeping operations. It is also responsible for decisions on the deployment of troops for up to 60 days under international agreements on common defence against aggression. Parliament must be informed immediately.

The Foreign Affairs Committee submits reports on foreign policy to the Plenary.

w) Finland

The responsibilities in the area of foreign policy are set out in Chapter 8 of the Constitution of 11 June 1999. Under Section 93 of the Finnish Constitution, competence for foreign policy lies with the President of the Republic in cooperation with the Government.

The President decides on matters of war and peace, with the consent of the Parliament.

In Parliament, the Foreign Affairs Committee is responsible for this area and also deals with the EU's foreign and security policy. The committee's main task is drawing up reports for the house on international treaties. It is also entitled to request information from the Government regarding the handling of foreign policy and can submit statements to the Government on this subject. The committee examines the Government's annual reports on external relations and development policy.

Under Section 94, the Parliament's approval is required for treaties and agreements that are of a legislative nature, are otherwise significant or otherwise require approval under the Constitution. This also applies in the case of termination of such treaties. A simple majority is needed unless the proposal concerns the Constitution or changes to the national borders, when a two-thirds majority is required.
No international obligation may endanger the democratic foundations of the Constitution.

Section 95 stipulates that the provisions of international treaties, in so far as they are of a legislative nature, are brought into force by an Act. In other cases, they are brought into force by Presidential Decree. In practice, the Parliament first passes a resolution on the approval of the provisions and then on their transposition.

According to Section 96 of the Constitution, the Government is responsible for preparing the way for decisions to be taken on EU legislative proposals. It must communicate the proposal in question to the Parliament, in order for the latter to adopt a position. The proposal is considered in the 'Grand Committee' and in the portfolio committees that issue statements to the Grand Committee. The Foreign Affairs Committee alone deals with foreign and security policy. The so-called 'Grand Committee' and the Foreign Affairs Committee both issue a statement to the Government. The Speaker's Council may decide to hold a debate in plenary session.

The Prime Minister must provide the Parliament or a committee with information prior to and following a meeting of the Council of Ministers and in the case of amendments to the EU Treaties. The relevant committee may issue a statement to the Government on the basis of the information it receives.

Under Section 97, the Parliament is entitled to request information from the Government regarding current foreign policy issues.

x) Sweden

Article 2 of Chapter 10 of the Swedish Constitution says that the Government may not conclude any international agreement binding upon the Realm without Parliament approval, if the agreement presupposes the amendment or abrogation of a law or the enactment of a new law, or if it otherwise concerns a matter which is for the Parliament to decide. This also applies if the agreement is of major importance. The Government may, however, act without obtaining the Parliament's approval of the agreement if the interest of the Realm so requires. In such a case the Government shall confer instead with the Foreign Affairs Advisory Council before concluding the agreement. Parliament has the right to approve EU agreements even before they are finalised.

The Government has to keep the Foreign Affairs Advisory Council continuously informed of all foreign policy matters of major importance (Chapter 10, Article 6) and should if possible confer with the Council before making its decision. The Foreign Affairs Advisory Council comprises the Speaker and nine other members to be elected by the Parliament from among its members (Chapter 10, Article 7). The Foreign Affairs Advisory Council is convened by the Government. The Government is obliged to convene the Council if no fewer than four Council members ask for consultations to take place on a particular matter. Meetings of the Council are presided over by the Head of State or, in his unavoidable absence, by the Prime Minister.

The Government is responsible for committing the armed forces to defend the country (Chapter 10, Article 9). Swedish armed forces may otherwise be committed to battle or sent to another country only if the Parliament has given its assent or it is permitted under a law which sets out
the prerequisites for such action or an obligation to take such action follows from an international agreement or obligation which has been approved by the Parliament.

No declaration of war may be made without the consent of the Parliament, except in the event of an armed attack against Sweden. The Government may authorise the defence forces to use force in accordance with international law and custom to prevent a violation of Swedish soil in time of peace or during a war between foreign states.

The Foreign Affairs Committee is responsible for international relations and agreements with other States and international organisations. This also applies to foreign trade and international economic cooperation.

Questions are put to the Government frequently and may take the form of oral or written questions. In February of each year there is a general debate following the Government's statement on foreign policy.

y) United Kingdom

Responsibilities of the two parliamentary committees

The House of Commons has a Defence Committee, an International Development Committee and a Foreign Affairs Committee. These departmental select committees are appointed to examine the expenditure, administration and policy of the respective departments or ministries, for instance of the Foreign and Commonwealth Office (FCO), but they are not involved in legislation. The UK's membership of international and multilateral or regional organisations such as the United Nations, the OECD, NATO and the EU also comes under the remit of the FCO.

In the House of Lords there is a European Union Select Committee and a Foreign Affairs, Defence and Development Policy Sub-committee. The sub-committee frequently deals with EU policy, for instance the ESDP, international development aid and foreign policy.

The declaration of war and the conclusion of international agreements are royal prerogatives, exercised by the Prime Minister on behalf of the Crown. Although the Government has no formal obligation to seek Parliament's approval before military operations by British troops, there was a debate and a vote of approval for the deployment of troops in Iraq.

Parliament very seldom exercises its right to oppose the conclusion of international agreements.

The parliaments of selected third countries

a) Russian Federation

The Constitution of the Russian Federation of 25 December 1993 contains only a few provisions relating to the competence of state bodies in the area of foreign relations.
Under Article 80, the President of the Federation represents the country in international relations. According to Article 86, he defines foreign policy, negotiates international agreements and signs treaties in the name of the Russian Federation. The President also signs instruments of ratification.

Article 106 stipulates that the laws passed by the State Duma (lower chamber) concerning the ratification or denunciation of an international agreement or treaty must also be considered in the upper chamber, the Federation Council. The State Duma has 450 deputies. A simple majority of deputies is needed to pass laws.

The Federation Council's members consist of a representative from both the legislative and executive body of each of the administrative areas making up the Russian Federation. A simple majority of members is also needed to pass laws in the upper chamber.

Under Article 114(1)(e), the Government implements foreign policy, which is binding throughout the entire Federation (Article 115(2)).

b) United States of America

Under Article I(8) of the Constitution of May 1787, Congress (i.e. both chambers) as a whole is responsible for defence, legislating on foreign trade, the declaration of war and the deployment and support of troops. It is also competent to make laws to execute all the powers vested in the Government.

Under Article II(2-3), the President has the power to conclude international treaties provided two-thirds of the senators present at the reading concur. The Senate officially authorises the President to ratify the treaty by means of a resolution.

Present constitutional law grants each of the two chambers the right to issue statements on entry into treaty negotiations, but they are not binding on the President.

The treaty remains in the hands of the Senate until it is approved or rejected or until the President calls for it to be returned to him. The Senate may also do the latter under its own initiative.

The Senate's involvement is left to the President's discretion. He may refuse to submit a treaty to the Senate, withdraw the treaty following its submission or refuse to ratify the treaty even when the Senate has granted its consent.

The Senate's Foreign Relations Committee deals with treaties of all kinds. The usual legislative procedure applies. Following its consideration in committee, the treaty is referred to the Senate as a whole.

The Senate may call for amendments to the treaty, express reservations, establish understandings, i.e. provide a binding interpretation, or issue a declaration. The power of amendment was questioned as early as 1805, as a situation could emerge where the whole treaty might be accepted with the exception of the amendments, but the opposition would then have the opportunity to reject the (amended) treaty altogether.
American constitutional law recognises three basic types of international treaty where the executive branch is left to decide:

1) If there is a danger that a two-thirds majority will not be obtained in the Senate, the President puts the treaty to the vote in both chambers, with only a simple majority required in Congress as a whole.

2) International congressional-executive agreements entered into by the President allow laws or agreements to be implemented, for instance in the field of development aid.

3) Purely executive agreements are negotiated by the President alone in his capacity as Commander-in-Chief and the highest executive body and also cover foreign relations. These agreements are concluded without the approval of Congress.

Since the US Constitution is unclear with regard to the regulation of powers in foreign policy and has allocated the executive and legislative branch overlapping responsibilities, it was left to the two to battle it out for control in this area. ('The Constitution was an invitation to struggle for the privilege of directing American foreign policy', Edward S. Corwin, Guide to Congress, vol. I p. 185).

The supremacy of the President is not just the result of the natural advantages the office brings, but was helped by the tendency of Congress to approve decisions already taken by the President and to declare its willingness to attend informal consultations instead of being formally called upon. This was particularly the case during the two World Wars and the Cold War and is still the case now that the threat to US security is perceived to be growing, requiring strong leadership and a rapid response to new kinds of weapons.

Throughout the 1970s, Congress became increasingly confident (Vietnam, Watergate and the Iran-Contra Affair) and challenged the President in the area of foreign relations (on its Central American policy, the Gulf War and international trouble spots), in order to play a decisive role in foreign policy. The power represented by presidential initiative is increasingly offset by the need for the cooperation and consensus of Congress. Congress's strongest but rarely deployed weapon is, formally speaking, its competence with regard to federal income and expenditure - the 'power of the purse'. In the past, this was particularly relevant in the case of the huge financial effort needed for the aid programmes for Western Europe and Turkey (military and development aid).

The House of Representatives has therefore gained influence on US foreign policy largely as a result of the need for funding for almost every foreign aid programme. Earmarking (especially for Egypt and Israel) and the setting of conditions and limitations have become an effective tool for shaping policy.

This also became evident with regard to the contracts for the Panama Canal, where the House of Representatives insisted on having control rights over the running of the canal. The Senate's prerogative in terms of voting on the content of international treaties itself is, however, accepted without qualification.
The House of Representatives is also on an equal footing with the Senate when an international treaty is submitted as a bill requiring a simple majority in both chambers, or when it becomes part of the usual legislative procedure because a vote must be taken on an implementing law for the treaty.

Trade and reciprocal treaties were repeatedly used by the House of Representatives, with the Senate's support, as an opportunity to assert their authority.

A further means of exerting influence is through laws such as the one strengthening the trade embargo against Cuba in 1996. After the Cuban Government shot down two US civilian aircraft, President Clinton decided not to veto the bill but, in a compromise with Congress, was authorised to suspend one of the clauses indefinitely.

The adoption of resolutions and 'sense of Congress' declarations, in which Congress makes clear its position on a certain issue, can also be used to influence the White House's foreign policy.

In exercising its general supervisory powers, Congress is equally having an impact on foreign policy. Hearings and inquiries can be held, for example, like those organised through the Foreign Affairs Committee by Senator Fulbright in opposition to the Vietnam War.

Another way of shaping foreign policy is provided by the possibility of putting a presidential initiative 'on ice' until the President has satisfied the Senate's concerns. An example of this is Senator Jesse Helms's policy of postponing decisions on important arms control agreements until the President had satisfied the chairman of the Foreign Affairs Committee that he would incorporate various foreign agencies (International Development, the US Information Agency and the Arms Control and Disarmament Agency) into the US Department of State.

The following sentence from Senator Arthur H. Vandenburg characterises cooperation between Congress and the President: 'Partisan politics, for most of us, stopped at the water's edge. I hope they stay stopped...'

c) Mexico

Under Article 76 of the Constitution of the United States of Mexico of 5 February 1917, the exclusive powers of the Senate include the monitoring of the Government's foreign policy on the basis of the annual reports submitted to the Parliament by the President and the appropriate government minister and the approval of international treaties and agreements concluded by the Government.

The Senate has seven committees dealing with foreign relations, a greater number than the Chamber of Deputies, which are divided up according to region (North America, Latin America and the Caribbean, Asia-Pacific and Europe and Africa), with a committee each for international organisations and international non-governmental organisations. The Congress (the Senate and Chamber of Deputies) is also responsible for approving the appointment of government representatives for State and working visits abroad.
The most important aspect of the work of the Foreign Affairs Committee of the Chamber of Deputies is the coordination of interparliamentary meetings and the organisation of fact-finding missions.

d) Brazil

Brazil's present Constitution came into force on 5 October 1988. Aside from the competence of individual states and municipalities to sign treaties with foreign states and international organisations, overall responsibility for foreign policy, particularly the power to conclude international agreements and referendum of the Congress, lies with the President (Article 84(VIII)), who, under this presidential system, represents the Government at home and abroad. No other section of the Government is authorised to sign Brazil up to commitments towards other states or international organisations. The President's power to do so is restricted by the requirement that both chambers of the Congress (in particular contrast to the US model) grant their consent (Article 49) when the agreement imposes financial burdens or commitments on national resources. The Chamber of Deputies and the Senate vote separately, but the latter takes precedence to a certain extent, as it is required under Article 52 to authorise foreign financial transactions.

Under the procedure, the President forwards the text of the treaty to the Chamber of Deputies following the close of negotiations. After approval in the lower chamber, the text is submitted to the Senate. If the Chamber of Deputies rejects the text, it is not forwarded to the Senate. Approval by the Senate takes place in the form of a Decree-Law. The majority of members of each chamber must be present for their respective vote. Approval merely requires a majority of those present. It is not necessary to pass a law on the entry into force of the international treaty. Instead, the President issues a publication decree.

e) Argentina

Like the Brazilian Constitution, the Argentine Constitution of 1853 (most recently amended in 1958) grants the provincial governments limited powers to enter into partial treaties with foreign states for the purposes of the administration of justice, of economic interests, and works of common benefit (Article 107). Under Article 108, however, the provinces may not enter into any partial treaty of a political nature. Foreign relations are the reserve of the Federal Government. Article 27 even mentions the Federal Government's obligation to strengthen its relationships with foreign powers by means of treaties.

Under Article 86(14), the President is responsible for concluding, i.e. negotiating and signing, treaties.

The powers of Congress (the Chamber of Deputies and the Senate, whose members are representatives of the provinces and the capital) are set out in Article 67. Under Article 67(12), the Congress is empowered to regulate trade by land and sea with foreign nations. Congress defines the national borders (Article 67(14)) and can approve or reject treaties concluded with other nations (Article 67(19)).
This procedure is not set out under the Constitution, but is based on the usual legislative procedure (Chapter V of the Constitution). Treaties are approved or rejected in their entirety. The President can veto the whole bill or part of it. The Government publishes the law in the Official Gazette and the ratification instruments are then exchanged.

f) Japan

Under Article 73 of the Constitution of 3 November 1946, the Government concludes international treaties, but must obtain the prior or subsequent approval of the Diet (the House of Representatives and the House of Councillors). In the event of disagreement between the two chambers, it is the position of the House of Representatives that takes precedence (Articles 60 and 61).

Although the Head of Government has a great deal of power (the Prime Minister may remove ministers who do not agree with his (foreign) policy under Article 68(2)), he still requires Parliament's support, as the majority of ministers (which in practice is almost all of them) must be members of the Diet (Article 68). The committees play a secondary role. They usually monitor specific situations (relations with the USA in particular) or become actively involved in foreign policy when it comes to protecting agriculture (rice imports) or the fishing industry.

Under Article 72 of the Japanese Constitution, the Prime Minister reports to the Diet on foreign relations.

g) India

The Indian Parliament has two chambers: the Lok Sabha, with directly elected representatives, and the Rajya Sabha, where the individual states are represented.

On 8 April 1993, 17 Standing Committees, including the Committee on External Affairs, were set up. This took place after years of intensive research into the way in which other parliaments (e.g. in the USA, Australia, UK etc) operated, in order to work with greater efficiency. Initially, in August 1989, only three Standing Committees had been set up.

One peculiarity is that, under Article 331D of the Rules of Procedure, each committee may have a maximum of 45 members, two-thirds of whom are to be appointed by the Speaker of the Lok Sabha and one-third by the Speaker of the Rajya Sabha. It is also notable that the term of office of a member of any given committee is only one year.

The Committee on External Affairs is instructed by the Government to examine documents concerning long-term foreign policy. It may also take up one of the issues mentioned in the Foreign Ministry's annual report and adopt a report on that subject.

The Committee on External Affairs examines the financially relevant draft laws containing requests for financial support and adopts a report on them.
Overall, the work of the Parliament appears not to have significant influence on the Government's activities. There seems to be no effective way of keeping the Government in check.

h) Australia

Under Article 51 of the Australian Constitution of 9 July 1900, the Parliament is empowered to make laws on foreign trade and external affairs. A bicameral system is in place.

Since 1987, the committee responsible for foreign relations has borne the title 'Joint Standing Committee on Foreign Affairs, Defence and Trade'. In 1991, the subject area of human rights was added to the committee's portfolio. The committee is made up of 20 members from the House of Representatives and 12 from the Senate. It is called upon by both parliamentary chambers, the Foreign Minister and the Defence and Trade Ministers. The committee can also independently raise issues mentioned in the Government's annual report.

At the beginning of the Howard Government in 1996, the procedure for concluding treaties was reformed to allow the State and its provinces an appropriate level of involvement. A 'Treaties Council' and a 'Joint Standing Committee on Treaties' were created. Citizens and interest groups can now make their concerns known.

The committee's activities include reporting on treaties that have been or are yet to be concluded, as well as any question relating to a treaty or international instrument that is referred to the committee by either of the chambers or by a minister, regardless of whether or not the treaty has been negotiated to completion. This committee is seen as one of the most effective in Parliament (it can deal, for instance, with the conclusion of around 60 treaties in one legislative term).

The 'Joint Standing Committee on Foreign Affairs, Defence and Trade' has established several sub-committees (Foreign Affairs, Defence, Trade and Human Rights). Its members include government ministers, one of whom is currently chairman. Adopted reports are submitted to the Joint Committee for consideration and, following that, to the Parliament.

The Constitution contains no specific provisions relating to the conclusion of treaties and so the general rules governing legislation are applied.

i) South Africa

Articles 83 to 85 of the Constitution of 8 May 1996 state that the President of the Republic is the Head of State and the head of the national executive.

Under Article 42 of the Constitution, the Parliament consists of two chambers: the National Assembly and the National Council of Provinces, in which each province is represented by a 10-member delegation.
Treaty negotiations and the signing of agreements fall to the executive branch, but parliamentary consent is required for them to take effect. This does not apply to agreements of a purely technical or administrative nature, which are forwarded to the Parliament for information only.

The text of the agreement is submitted in line with the Rules of Procedure to the Speaker of the Parliament, who then submits it to the relevant committee and, if necessary, to other committees for consultation. The committee responsible may also consult other committees of its own accord, but is obliged to do so if so instructed by the Speaker. The committee in overall charge then presents a report to plenary with a recommendation for acceptance or rejection, on which plenary decides by means of a resolution.

In practice, the Parliament plays a more advisory than active part in shaping foreign policy, owing to the largely autonomous role of the President, Vice-President and Government in this area. The Ministries for Foreign Affairs and Trade and Industry have substantial influence with regard to foreign policy.

j) Egypt

The Egyptian Parliament has two chambers: the People's Assembly (Majlis al-Shab, 454 members) and a consultative chamber (Majlis al-Shura, 264 members).

Under Article 153 of the Constitution, the Government is the highest executive and administrative body. According to Article 151, the President concludes treaties and communicates them to the People's Assembly accompanied by an explanatory statement. Following ratification and publication, they are legally binding. In the case of peace treaties, alliance pacts or commercial treaties or treaties involving territorial changes or having financial implications, however, the approval of the People's Assembly is required.
# Summary table: External policy provisions in the Treaty establishing a Constitution for Europe

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<td>1 COOPER</td>
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<tr>
<td>KLAIBER, EU Special Rep. in Afghanistan</td>
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FURTHER READING - OTHER EUROPEAN PARLIAMENT DOCUMENTS


European Parliament, Directorate-General for Research, Briefing on The handling of confidential information in the parliaments of the Member States, March 2003.