

The European Council and IGC of December, 2003 ¹

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Introduction

A year to the day after the Copenhagen European Council agreed to admit ten new members, EU 25 failed its first major collective test. The Brussels IGC on 12 and 13 December was widely expected to last a long time, because the issues at stake were complicated and the divisions between the principal protagonists deep. In the end, it was all over in less than 24 hours.

In the immediate aftermath of the breakdown, both commentators and insiders looked for culprits. This was understandable, and indeed justified, since, as the second section of this paper will confirm, there was a rich mix of incompetence, obduracy and deviousness. The breakdown of the intergovernmental conference in Brussels in December 2003 was nevertheless an accident waiting to happen. The EU was in deep trouble long before the heads of state and government assembled. It is necessary therefore to begin with the origins of the crisis.

1. The origins of the crisis

There were essentially three issues that the Brussels meeting ought to have resolved. The first was the weighting of national votes in the Council of Ministers, the second the scope of qualified majority voting, (*qmv*), and the third, the number of commissioners, and whether, more specifically, the present principle of at least one commissioner per member state should be retained.

¹ The European Council meeting, which lasted little more than an hour, is discussed in an Annex to the present paper.

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All three questions have a long and complicated history. In 1994, for example, a Spanish government led by Felipe Gonzales, José-Maria Aznar's predecessor, threatened to torpedo the Union's fourth, 'EFTA' enlargement, unless Spain's status as a large member state was duly acknowledged in the post-enlargement voting system. The Ioannina compromise, with which the Spaniards were bought off on that occasion, was intended to be no more than a holding operation, pending the intergovernmental conference which everybody agreed would be necessary before the Union's next, still more ambitious enlargement eastwards and southwards. When the heads of state and government returned to the weighting of Council votes at Amsterdam in June 1997 however, they were unable to rationalise the system, in the face of the overt opposition of a new Spanish prime minister, who kept them talking about Spain's problems until the not so early hours of the morning, and the continuing refusal of France to abandon parity with Germany, in favour of a dual key system, along the lines of the one eventually incorporated in the draft Constitution.

The Amsterdam IGC was also rather less than successful in resolving the other two issues: the composition of the Commission and the scope of qualified majority voting (*qmv*). The large states agreed that they would in due course give up their additional commissioners. The small states were not however ready to contemplate any arrangements that compromised the principle of one commissioner per member state. As for *qmv*, despite the encouraging tones and performance of the new British prime minister, Tony Blair, it was painfully obvious that he, like his predecessor, had 'red lines' beyond which he could not advance.

Three and a half years later, at Nice, the IGC duly agreed a treaty, but at the cost of compromises which were inelegant and cumbersome. Each member state was allocated a portfolio of votes ranging from 29 for the four largest to 3 for Malta. The minimum requirement for a qualified majority was to be 258 votes, cast by a majority of members. An additional criterion stipulating that the 258 votes must also represent at least 62% of the population was also included, as a concession to Germany, whose votes remained at French insistence at the same level as the other large states, France itself, Italy and the United Kingdom. In the light of what has happened since, the most important feature of the Nice dispensation was however that Poland and Spain were given 27 votes each. This meant that, despite the huge discrepancies between the size of their populations and the populations of the other large states, either of them could form a blocking minority with two of the latter.²

² Both Poland and Spain have populations of approximately 40 million each. Germany's population, which is over 80 million, is therefore twice as large. France, Italy and the UK are all just under 60 million.

There was also some movement on the composition of the Commission, when the small states accepted a Protocol that said that as and when the Union became EU 27, 'the number of members of the Commission shall be less than the number of member states'. Last, but by no means least, the list of occasions on which the Council could vote by *qmv* was significantly extended, even though important questions such as taxation and social policy remained off limits.

The treaty of Nice was 'neither a triumph nor a disaster'.³ A Declaration annexed to the treaty at the insistence of the German government made it clear however that for most if not all concerned, it was, like the Ioannina compromise and the Amsterdam treaty before it, no more than a stop gap solution, which would sooner rather than later be replaced by a new and hopefully more durable regime.

In the light of Peter Norman's admirable book, there is no need to describe either the origins or the outcome of the Convention which the European Council established at Laeken in December 2001.⁴ Suffice to say, the draft constitutional treaty, which eventually emerged contained radical solutions to all three problems and particularly to the weighting of votes in Council, where the majority was redefined as a simple majority of states representing at least 60% of the population. If this provision were approved it would deprive Poland and Spain of their standing as large states in a blocking minority.

In the light of some of the more extravagant claims that continue to be made in favour of the Convention as opposed to the IGC, it is important to stress that the Convention did not and could not provide conclusive answers to any of the three issues. The Convention was an exciting and in many ways very successful experiment.⁵ Although the IGC could in principle have undone everything that the Convention had previously agreed, most of the draft Treaty remained intact, and even those amendments that were more or less accepted between October and December did not significantly modify its scope and objectives.⁶ The fact remains however that its provisions regarding the weighting of votes in Council, the composition of the Commission and the scope of majority voting, were in the final analysis no more than recommendations. The Convention 'succeeded' in other words, precisely because it was incapable of committing the EU's member states.

³ Peter Ludlow. The European Council at Nice: neither triumph nor disaster. *A View from Brussels* No.10, January 2001.

⁴ Peter Norman. *The Accidental Constitution : The Story of the European Convention*. EuroComment, Brussels, November 2003.

⁵ In addition to Peter Norman, see Peter Ludlow. Twenty six reasons for welcoming Part 1 of the draft Constitution. Annex to *Briefing Note* No.2.3, 1 July, 2003.

⁶ The clearest indication of what foreign ministers had more or less agreed before the Brussels European Council is to be found in the proposals that the Presidency submitted to the heads of state and government in December. See CIG 60/03 9 December 2003.

The Spanish government rammed the point home with its customary force during the final stages of the Convention, by signing up to the draft constitutional treaty, while at the same time explicitly registering its reservations about what the draft constitution had to say about the weighting of votes in Council. It was also abundantly clear that other governments too intended to voice their doubts once the IGC began. The Convention was a highly useful precursor of the IGC. It was not and could not be an alternative. When the IGC started, it had therefore to return to the drawing board.

The emotions that these three questions have continued to arouse may at first sight appear disproportionate. It is therefore essential to recall some of the deeper concerns that have helped to shape the behaviour of the principal protagonists. As a previous paper in this series has already indicated, four are particularly important.⁷ Although it means covering ground that has already been covered on an earlier occasion, the issues involved are so central to the discussion in the rest of this paper that some repetition is unavoidable.

Small states and large states

Arguments between the small states and their larger partners have been a feature of EU politics from the very beginning. Although, presumably, a Council of Ministers would have emerged anyway for other reasons, it was Dutch anxieties about Franco-German dominance of and through the High Authority, the predecessor of the present Commission, which prompted them to insist on a role for the Council in the treaty establishing the European Coal and Steel Community in 1951.

It is therefore scarcely surprising that the smaller member states have figured prominently in every discussion of constitutional issues, and more particularly the weighting of votes in Council, the composition of the Commission and the distribution of seats in the European Parliament in the last ten years. When for example the Brussels European Council of October 2002 discussed progress in the Convention with Valéry Giscard d'Estaing, the debate was totally dominated by small state prime ministers, most of whom stressed their vital interest in a strong and representative Commission.

There is therefore in one sense nothing new about the present situation. During the past five years however, the tone has changed significantly for the worse. At Biarritz in October 2000, leaders of the small and large states traded insults over the dinner table. At Seville, two years later, seven small state prime ministers thwarted a much needed Council reform proposal because they smelt a large state plot.

⁷ Peter Ludlow. The launching of the IGC. *Briefing Note* No.2.5. 9 October, 2003.

In the Convention- and later in the IGC- between fifteen and eighteen existing and future members, with Austria and Finland very much to the fore, constituted a cabal that met at ministerial and official level in settings as diverse as New York, Prague, and the Austrian permanent representative's residence in Brussels.

It is still difficult to explain why the debate has become so much more intense recently. There has doubtless been some provocation, notably by France and Germany. The imminence of an enlargement that will increase the number of small states in the EU from 10 to 19 was also important. So too more generally has been the growing importance on the EU agenda of issues such as monetary union and foreign and security policy, in which the differences in the perspectives of large and small members are more obvious. Be that as it may, some of the small states themselves have contributed significantly to a breakdown of civility inside the EU, which has exacerbated the search for common ground in both the Convention and the IGCs that preceded and followed it.

Old and new member states.

A certain amount of tension between old and new members was only to be expected in the immediate run-up to enlargement. Once again, however, there has been an edge to the public rhetoric, if not in most cases to the private behaviour of ministers and officials from some of the new member states, which has not been apparent in previous enlargements.

This stricture, it should be stressed, does not apply to all, or even the majority of the new members. Cyprus for example would appear to have no hang ups. Nor it seems do Latvia, Lithuania, Slovakia and Slovenia. In the Hungarian debate too, worldly wise lovelessness has been more in evidence than outright scepticism. Public discourse about the EU in the Czech Republic and Poland by contrast has frequently been virulent.

In the Czech case, some of the remarks to journalists in Athens in April 2003 by Václav Klaus were more denigratory than anything that one can recall from his mentor, Mrs Thatcher, when she was in power. In Poland, which figures prominently in the rest of this paper, the tendency of senior politicians to employ wild language and make irresponsible claims was already a source of concern in the final stages of the accession negotiations. So much so, that the Danish Presidency and the Commission were sometimes at a loss to know how the EU could help.⁸ In the past few months, the Italian Presidency has been confronted with the same phenomenon. As

⁸ On this see Peter Ludlow. *The Making of the New Europe*. European Council Commentary Series, 2.1. EuroComment, Brussels. January 2004.

Gerhard Schroeder observed on the eve of the Brussels IGC, there is something odd about a new member of the club that seems to be intent on 'beginning with a veto'.⁹

The Spanish problem

The special position of Spain has occupied a prominent place in the EU constitutional debate throughout the past decade. The fundamental issue at stake has always been Spain's claim to be treated as a large member state. During the past one to two years, however, the picture has been complicated by the deterioration in Spain's relations with France and Germany.

The causes are numerous. A crucial moment was France's failure to stand by Spain during its dispute with Morocco in the summer of 2002. The Iraq war, linked with the perception that US strategy in the future may give greater weight to maritime powers such as Spain, than to central powers such as Germany, has also been significant. More important than any of these external considerations, however, have been Aznar's impatience with French and German economic policies, and his growing conviction that Spain's own economic success means that it will soon be, and perhaps already is, no longer dependent on EU handouts to help it on its way.

Divergence and rivalry amongst the largest states

The cleavage between the Franco-German axis on the one side and the UK, Spain, Italy and several Central and Eastern European states on the other, has become increasingly significant in the politics of the EU since Jacques Chirac's re-election in 2002. Iraq was undoubtedly one cause. It was however far from being the only, or even, on the Franco-German side, the most important one.¹⁰ In the second half of 2002, Chirac and Schroeder had at least six bilateral summits. Iraq figured frequently on the agenda. So too however did the financing of enlargement, European defence, the European Convention, and the restructuring of Franco-German cooperation in connection with the fortieth anniversary of the Elysée Treaty in January 2003.

The tones and even the priorities have occasionally differed in Berlin and Paris. Some of those involved have spoken of a Franco-German Union within the Union. Others have appeared more interested in creating a 'core Europe' composed, for example, of the founding members of the European Community. There has even, on occasions, been talk of a revival and extension of big three cooperation with the UK. Common to every proposal has however been the shared conviction that France and Germany can only maintain their

⁹ *Financial Times Deutschland*. 12 December 2003.

¹⁰ On this, see once again Peter Ludlow. *The Making of the New Europe*.

leadership role in the enlarged Union through a more rigorous and systematic commitment to joint action than ever before. An important outward and visible sign of this new and more radical approach towards the bilateral relationship, which has totally transformed the parameters of the debate about Council voting, was France's quiet abandonment during the Convention of its claim to parity with Germany. Most if not all the complications in the Council voting system that was eventually sanctioned at Nice had their origin in France's insistence on formal equality with its partner across the Rhine.¹¹

On the UK side, the Blair government's new European strategy, based on a series of special relationships with selected partners, was not intended by those who devised it in 1997, to create a rival grouping to the Franco-German axis. On the contrary, the Foreign Office memorandum of May 1997 in which the strategy was outlined, highlighted the futility of trying either to undermine the two countries' special relationship, or to 'encircle' them. Growing differences with France and Germany over economic as well as security questions, particularly in the past two years, have however tended to transform the UK led group into an alternative pole of influence in the politics of the EU. Three illustrations will suffice.

The first, and most notorious, was the joint letter early in 2003 by 'the group of eight', endorsing the United States' handling of the Iraq crisis, and stressing the need for transatlantic solidarity. Tony Blair, it seemed, was the anointed leader of Donald Rumsfeld's 'New Europe'.

The second was the moment in the Convention at the end of May 2003, when Peter Hain, the UK government's representative, agreed to endorse a declaration by Alfonso Dastis, his Spanish counterpart, calling on the Convention not to tamper with the institutional provisions of the Nice Treaty. Hain subsequently explained his action as a *quid pro quo* for Dastis' support of the UK's efforts to block the introduction of *qmv* into the articles dealing with tax and social security. It also, however, reflected a more general feeling on Hain's part, that Spain and the UK were on the same side on most of the important questions.¹²

The third example comes from the final stages of the CAP reform negotiations, when it looked for a while as though France might be able to create a blocking minority with the help of Germany and Spain, whose minister of agriculture had been a consistent and outspoken critic of the Commission plan. Faced by this possibility, Franz Fischler, the commissioner responsible, appealed to Tony Blair

¹¹ Peter Ludlow. The European Council at Nice: Neither Triumph nor Disaster. *A View from Brussels*. No.10, January 2001.

¹² See Peter Norman. *The Accidental Constitution*. pp 262-64 and 198-201.

for help. The result was that on Aznar's instructions, Spain reversed its position, and sided with the majority.

As subsequent pages will confirm, the balance of power between the rival groups was not stable. During virtually the whole of 2003, however, the struggle between them was a factor of central importance in the politics of the EU. As a result, it inevitably cast a shadow over both the Convention and the IGC.

2. The causes of the breakdown at Brussels

Against this background, failure at Brussels was always on the cards. It is indeed difficult to recall any recent episode in the history of the European Union, when so many participants were so publicly pessimistic about the outcome as they were in the days and hours immediately preceding the Brussels meeting. The *Süddeutsche Zeitung* for example reported on 11 December that the German government was 'totally reconciled' to the possibility of failure. It was a sentiment which, to judge by reports from London, Madrid, Paris and even Rome, was widely shared elsewhere.

A breakdown was not however inevitable. On the contrary, although the compromises that have been reached on previous occasions have been sub-optimal, the European Council has always managed to cobble together some kind of agreement rather than none. Why therefore did it fail to do so on this occasion?

Three explanations are worth exploring: the role of the Presidency, the behaviour of Poland and Spain and the mutual relations and common actions of Europe's 'big three', France, Germany and the UK

The role of the Presidency.

The Italian government's handling of the IGC, both before and at the special meeting of foreign ministers at Naples on 28-29 November, had been widely and justly praised. Working closely with the Council Secretariat, foreign minister Franco Frattini's highly competent team in the Farnesina, led by Rocco Cangelosi, managed to clear upwards of 90% of the IGC agenda in little more than two months. The document that the Italian Presidency submitted to the member states on 9 December was a monument to this success.¹³

Unfortunately for the Italian Presidency, however, what appears to have struck most of those who read it was not what the report said about the work that had been done, but what it did not say about the work that was still to be accomplished. Between 90 and 95% of the agenda may have been more or less settled. The 5% that remained

¹³ CIG 60/03

was always however going to make or break the conference, and on these questions, to the obvious annoyance of those like the Spanish government who were looking to the Italians for a help line, the Presidency remained ominously silent. Not without reason, this was taken as a sign that Berlusconi was inclined to side with Germany and France, who wanted to safeguard the provisions contained in the draft constitutional treaty, rather than Spain or Poland, who wanted to return to Nice.¹⁴ Silvio Berlusconi boasted that he had a 'secret accord in his pocket' which he would produce at the appropriate moment, but few, and certainly not the principal protagonists, took him seriously.

Once the heads of state and government assembled in Brussels, it was quickly apparent that the Presidency did not have a game plan, let alone a magic formula. After a rapid romp through the European Council agenda on the Friday morning,¹⁵ the heads of state and government met for what the Presidency had announced would be a working lunch on international affairs. Without prior warning, Berlusconi decided that it would be more useful if they turned straightaway to IGC business.

In and of itself this was not a bad idea. Nobody had however thought to warn the Poles of the change of plan, with the result that Leszek Miller, who arrived in Brussels in a wheel chair following a helicopter accident the previous weekend, and who had decided to take a rest during the luncheon, was not present when Berlusconi introduced the subject. Given the Polish government's special position, Miller's deputies protested reasonably enough that it would be a waste of time to embark on a discussion without their prime minister. At which point, the meeting descended into farce. In the first of what was to be a series of sexist remarks which continued until the early hours of the morning, Berlusconi suggested that they should talk about 'women and football' instead, adding for good measure that he was sure that Gerhard Schroeder-who has been married four times- would be able to bring considerable expertise to bear during their discussion.¹⁶

It was just about the worst conceivable non-beginning to the IGC. Still worse was to follow, however. The Presidency announced that it would hold a series of 'confessionals' with the principal protagonists, before convening a plenary session later in the afternoon. As earlier IGC presidencies had done the same, there was nothing inherently objectionable in this plan. The trouble was however that in both the bilateral discussions and the plenary session, the Italian prime minister made it painfully obvious that he had virtually no practical

¹⁴ In an interview with *La Repubblica* on 11 December, Franco Frattini called on Spain to compromise.

¹⁵ On the European Council meeting, which lasted little more than an hour, see the Annex to the present paper.

¹⁶ The impact of these remarks was somewhat diminished by the fact that some of the interpreters apparently refused to translate them.

ideas about how the dispute about Council voting could be resolved, let alone the 'secret accord in his pocket' of which he had spoken before he arrived in Brussels.

The plenary session, which began at 17.45, and which proved in the end to be the only formal IGC debate on either of the two days, is a good illustration. Berlusconi announced that he was convinced that most governments would be willing to accept the principle of one commissioner per member state. On the other two questions however—Council voting and the scope of *qmv*—opinions differed. He therefore proposed to hold further bilateral consultations with every delegation that requested one, even if this meant working through until 1.00 am and starting again in the morning. Once this process was over, the Presidency would circulate a written proposal prior to a further plenary session which he hoped would take place at 11.00 on Saturday.

It was a purely procedural announcement, which did not contain any indication of how if at all the Presidency believed the divergent positions could be reconciled. In the absence of any lead from the chair, those who spoke during the debate that followed could therefore do little more than express views that they or their foreign ministers had already articulated elsewhere and/or declare their eagerness to arrive at a successful conclusion. Of the twenty five heads of state and government present, only ten other than Berlusconi himself bothered to speak at all, and of these, one, the President of France, simply noted that he would say what he had to say in the morning. Aznar, Blair and Schroeder said nothing at all.

In order to allow time for bilateral discussions, Berlusconi cancelled the working dinner, with the result that a number of delegations made plans to dine alone or with others in restaurants outside the Council building. Initially indeed, there were surprisingly few takers for the confessionals. Tony Blair was fitted in at 20.00, but several of the others, such as Jean-Claude Juncker, only decided to ask for a meeting relatively late in the evening, when rumours began to circulate about a possible declaration in favour of the creation of a core Europe by the French, the Germans and the Belgians, whose leaders were known to be having dinner together in another part of town. The result was that the Presidency had a rush of customers between 22.00 and 1.30 am and had to put several others off until the Saturday morning.

Most, if not all of those including the leaders of Belgium, the Czech Republic, Denmark, Luxembourg, the Netherlands and Sweden, whom Berlusconi saw late on Friday evening, emerged convinced that there was virtually no chance of a deal. This was partly because of what Berlusconi told them about the positions adopted by the principal protagonists during the afternoon confessionals. It was still more,

however, because, as one government representative observed, the Italian prime minister did not appear to 'have a clue about what he could or should do next'. There was also, during some of the late night sessions at least, clear evidence that Berlusconi's advisers were deeply divided.

The proceedings on Saturday were even more perplexing. Those, such as the Greeks, the Hungarians, the Portuguese and the Slovaks, who had been promised slots, had been asked to get to the Council building early. When they got there, however, they discovered that Berlusconi himself was still in his hotel. As a result all the bilaterals that were held on the Saturday were conducted by Franco Frattini, the Italian foreign minister. Apart from a note covering the composition of the Commission, there was furthermore still no evidence of the written proposal that the Italian prime minister had promised.

Shortly before 11.00, when, according to Berlusconi's statement the previous evening a second plenary session should have been beginning, the Presidency invited five governments, Denmark, Greece, Hungary, the Netherlands and the United Kingdom to send senior officials to a meeting with Rocco Cangelosi. Presidencies have quite often in the past assembled 'friends of the Presidency' to help them out of a difficult situation. There were precedents therefore. To the consternation of at least some of those who attended the meeting, however, the Presidency did not as they expected present them with a compromise proposal and ask their views. Instead, the officials concerned were requested to ask their prime ministers whether they would be willing to meet with Silvio Berlusconi to review the situation and then fan out amongst their colleagues in what would have been to all intents and purposes yet another sounding out operation.

Long before 'the friends of the Presidency' had finished, however, the initiative had passed decisively elsewhere. While Berlusconi was busy with his Friday evening confessionals, Jacques Chirac, Gerhard Schroeder and Guy Verhofstadt met for dinner at a Japanese restaurant at the other side of town. The conversation was wide ranging. Two points were however agreed. Firstly, the current meeting was almost certainly leading nowhere, and secondly, if the IGC broke down, practical steps to establish a core Europe would have to be contemplated.

Rumours about this meeting began to circulate on the Friday evening itself. By the time national delegations reassembled in the Council building on the Saturday morning, however, the air was thick with talk of a Declaration that would shortly be released by France, Germany and a few other countries. The impact was startling. As a senior Luxembourg official observed, governments such as his that were believed to be part of the 'core Europe' found themselves inundated by anxious enquiries from representatives of the new

member states from the Baltic Sea to the Mediterranean, who feared that they might be left out.

In the absence of Berlusconi, who was still in his hotel, Chirac and Schroeder were meanwhile conducting confessionals of their own. The German chancellor saw his Polish colleague in a meeting that lasted less than five minutes, while the French president talked with the Spanish prime minister for thirty minutes. The outcome of the German-Polish meeting was entirely negative. So too, according to the French, was the Franco-Spanish conversation, though Spanish officials insist that Aznar indicated that he was ready to strike a compromise. For immediate practical purposes, however, it was the French version of events that counted, since it prompted the French and German leaders to ask Tony Blair to join them in a trilateral meeting that began at about the same time as the Italian meeting with the friends of the Presidency.

The meeting between the big three did not take very long. When it was over, they asked to see Berlusconi who appears by then to have been back in circulation. Outward courtesies were of course observed: the meeting with the Presidency was to be no more than an exchange of views. The reality was however very different. The Italian prime minister was left in no doubt that he should call the conference to a halt. Shortly afterwards, he did as he was told.

As this brief summary should have suggested, Silvio Berlusconi's performance was incompetent from beginning to end. He tried to start before he had said he would. He gave no sense of being in charge at any stage. He stopped because he was instructed to. The EU has had a rather impressive run of European Council presidencies: Paavo Lipponen, Antonio Guterres, Guy Verhofstadt, José-Maria Aznar, Anders Fogh Rasmussen and Costas Simitis have all carried out their duties with distinction. Berlusconi clearly did not.

Berlusconi was however a bit player in a drama written and directed by others. To hold him primarily responsible for the breakdown at Brussels would be to endow him with an importance that he simply does not have. The fact that he was absent for most of the time on the Saturday morning and in the end closed the conference because he was told to do so says it all. His ineffectiveness undoubtedly enhanced the sense of anarchy that was never far away. It also meant however that he could be, and was, told what to do, if those in a position to push him around had a mind to do so. The outcome of the Brussels meeting was determined much more by the actions and interplay of five of Berlusconi's partners: José-Maria Aznar, Leszek Miller, Tony Blair, Gerhard Schroeder and Jacques Chirac.

Poland and Spain

Both Aznar and Miller wanted to maintain the Council voting system provided for in the Nice treaty. By the time that the Brussels Council met, they were however clearly on their own. Despite this, both stuck obstinately to their positions. In Poland's case indeed, the leadership's rhetoric hardened rather than softened. In a BBC interview shortly before the European Council assembled, the Polish President, who seemed likely at the time to take the injured prime minister's place, compared the stand that Poland was taking in the IGC to its struggle for national independence and its overthrow of the Communist yoke.

When the meeting began, Spanish officials claim that their prime minister told the Presidency that he was ready to compromise. It is also said that he gave the same message to Jacques Chirac on Saturday morning. This sounds plausible, if only because it is consistent with Spanish behaviour on previous occasions. On this occasion, however, Aznar had unwittingly carried his brinkmanship beyond the brink. Whether he liked it or not, he was no longer an independent operator, who could choose when to fight and when to compromise. Inextricably bound to Poland, his only chance of achieving an honourable compromise would have been by helping his Polish colleague down from the tree into which, inspired by Spain's example in the Convention and the IGC, he had recklessly climbed. There is however no evidence to suggest that he even tried.

As for Poland itself, try as hard as one can, it is difficult to sympathise with, let alone exonerate the tactics pursued by the prime minister, president and foreign minister before and at the meeting. When the question of the Council voting system came up in the Convention, the Polish government's admirable representative, Danuta Hübner, indicated her sympathy with Spain's stand. Unlike her Spanish counterpart, however, she did not register any specific reserve when the time came to sign the draft treaty, presumably because she at least understood that overall agreement on the draft constitution was a prize of even greater value. In the months that followed, a weak government, whose support in public opinion polls had sunk to single figures, allowed its fight for survival at home to destroy its judgement about what it could reasonably hope to obtain in the IGC. When Miller returned to Warsaw he was hailed as a hero. In the European Council, which must within the next two years take decisions of considerable material significance for Poland, he was totally isolated.

Despite their pretensions to large power status, it is however unlikely that either Aznar or Miller could have thwarted an agreement indefinitely. Their misjudgements, like the Presidency's ineptitude, contributed to the breakdown. The decision to break the meeting up was nevertheless not theirs, any more than it was Berlusconi's. If

therefore we are looking for an explanation of why the IGC broke down, it is to the big three that we should look.

The Big Three

They began Friday 12 December by breakfasting together. According to British sources, it was an amiable, but inconclusive occasion. According to the French, it provided fresh evidence that Blair had to all intents and purposes been neutralised. Events during the following twenty four hours suggest that the French judged rightly. When towards the very end there was a clash between his second meeting with Chirac and Schroeder, and the Presidency's belated attempt to convene some 'friends of the Presidency', Blair took his senior advisers to the meeting with the French and the Germans, and sent a (very able) B team to hear what the Presidency had to say. Any analysis of why the big three acted as they did must therefore focus on Jacques Chirac and Gerhard Schroeder.

By the time the European Council met, both Chirac and Schroeder had made it clear, together and apart, that it would be better to have no treaty than to have a bad treaty. They were ready therefore to contemplate failure. Did they facilitate it?

The short answer is that we do not know and, given the way in which the two principals play their hands, are never likely to. What does seem clear however is that at the very least neither of them could have found a breakdown inconvenient. On the contrary, developments both before and during the Brussels meeting suggest that the balance of power within the Union was moving so decisively in France's and Germany's favour that they stood to gain from a prolongation of the conference. Three illustrations must suffice.

The first was a quiet, but perceptible softening of the small states' approach to the IGC, which was already apparent at the end of November, and was sufficiently marked in the week before the Brussels meeting to suggest that the risk of the small states making common cause with Poland and Spain had all but vanished. France and Germany themselves were still widely distrusted, particularly in the eurozone group, where their outright refusal to abide by the terms of the stability and growth pact had been a shock to the system. The small states' apparent willingness not to push too far within the context of the IGC nevertheless benefited them much more than it did Poland and Spain.

The second development was even more important. In various settings and by various means, the British prime minister signalled shortly after the summer holidays that he wanted to mend his bridges to the central powers. As the protracted negotiations on European defence were to show, neither Tony Blair nor his closest aides, were prepared

to abandon some of their most cherished principles on the role of NATO. Blair's journey to Berlin in September was not therefore his Canossa. He was nevertheless the *demandeur*. As a result, despite thick layers of compromise and conditionality, the French and the Germans already knew before the European Council that they had got what they wanted on defence, while the breakfast *à trois*, which was duly arranged for the morning of 12 December, only confirmed that the British would not cause them trouble in the IGC.

The third pre-Brussels development did not become public knowledge until after the breakdown had actually occurred. Unbeknown to most of their actual or prospective partners, six net contributors to the EU budget, Austria, France Germany, the Netherlands, Sweden, and the UK had been working since November on a joint position on the future of the EU's finances. The Swedish government took the lead in this initiative and the letter that the six sent to Romano Prodi on 15 December, was intended in the first instance as a contribution to the 'great debate' on the future of the EU budget, rather than the IGC. That was why it was not released until after the Brussels meeting. All its sponsors, including France and Germany, were nevertheless fully aware that the hard line message that it contained about the need to lower the ceiling on the EU's future budget was likely to become more rather than less useful in dealings with Poland and Spain, as time went by.

At the meeting itself, things continued to fall nicely into place as far as the French and German leaders were concerned. Donald Rumsfeld's New Europe was in obvious disarray. Aznar was not talking to Miller and neither could rely on Blair. The defence deal, which was endorsed on Friday morning by the European Council, was highly satisfactory. The small states scampered for cover in core Europe. And Silvio Berlusconi had mud not just on his face but at every other point of his anatomy.

This may or may not have been what they planned. It seems fairly obvious however that the French and the Germans had good reason to call proceedings to a halt, particularly as the alternative was the excruciating sight of an incompetent president in office spoiling everybody's weekend.

3. Future prospects

When the party ended, both the French president and the German chancellor emphasised that what had happened did not constitute a 'crisis'. As Jacques Chirac observed, the EU had never before begun and finished an IGC under the same Presidency. It was therefore neither surprising nor disturbing that the Italians had decided to leave it to their successors to complete the task which they had done so much to advance so far. The two men were also at pains to stress that

core Europe was not an objective in itself, but a possible consequence of a definitive breakdown that had not yet occurred.

In the light of what has been said above about the causes of the breakdown, this kind of language was only to be expected. France and Germany had no reason to be worried and every reason to be conciliatory. What is less immediately obvious but still more important, is that, looking to the future, they may well be right. No breakdown is either pleasant or dignified. What happened in December could nevertheless prove to have been a necessary phase in a process that in the end purges the EU of some of the more obvious poisons that have affected its health during the last ten years.

The big state-small state balance, for example, is out of kilter. Not, as the more vociferous leaders of the small states claim, because the small states are a threatened species, but because in a decentralised economic and political Union, which depends on the efforts and efficiency of its member states, those who will have to commit the largest resources to make it work must be satisfied that their powers are commensurate with their responsibilities. Of course the smaller states require safeguards. Even if the six largest states in EU 25 were to vote together however, they would still require seven small state allies to secure the simple majority required by the new constitution. As in addition a coalition of the big six with the smallest seven would represent approximately 75% of the population of EU 25, the new regime can hardly be described as undemocratic.

As for Poland and Spain, the idea that with less than half the population of Germany, their voting strength should be roughly equivalent, was already bizarre at Nice. Now that France has abandoned its claim to parity with Germany, the Polish and Spanish position is indefensible. If the prolongation of the IGC allows more pressure to build up on Poland Spain, the EU, and not just France and Germany, stands to gain.

It also seems likely that after the harrowing experiences of the Iraq crisis, the EU is on the way to developing a common foreign and security policy worthy of the name. The provisions of the constitution, on which, the scope of majority voting apart, everybody would seem to be agreed, coupled with the political agreements on the EU's new military structure and its security doctrine, suggest that a new and healthier balance in the age-old dispute between Europeans and Atlanticists is attainable.

There has also been a significant sobering up process, in the course of which many of the sillier illusions of both the member states and the institutions have been tempered, if not entirely destroyed. The constitution, on 90% of which everybody appears to agree, openly acknowledges principles that have long been true, but which the

rhetoric of enthusiasts and sceptics has too often obscured. That the EU is a hybrid, combining elements of both intergovernmentalism and supranationalism. That the European Council, which brings together both heads of state and government and the president of the Commission is the core of the system. That EU law has primacy over national law.

Last, but not least, there appears to be a greater willingness to acknowledge the central position of France and Germany in the system. The stampede to join core Europe in the final hours of the Brussels meeting was to a certain extent the result of panic. It was nevertheless salutary. So too is the quiet, but significant reappraisal of the UK's alliance policy that has gone on since the summer. An EU without the UK or Spain would be suboptimal. An EU without France and Germany is simply inconceivable.

There are however some very large obstacles still to overcome. The breakdown may have been convenient, and even potentially beneficial. The problems that the Brussels meeting failed to resolve must however be resolved before the benefits can be reaped. The constitution may be 90% a done deal. Until the residual issues are settled, however, there is no constitution. This in turn means that there is also a danger that some matters that appeared to be agreed before the December breakdown may return to haunt the Union when negotiations begin again.

When Berlusconi attempted at lunch on Saturday, 13 December to discover a silver lining in what had happened, he claimed that of the three questions that were at the heart of the final stages of the negotiations, two were to all intents and purposes settled: the composition of the Commission, where everybody now appeared to accept the principle of one commissioner per member state, and the maintenance of the national veto when the Council deals with taxation, social security, own resources, aspects of the foreign and security policy and criminal procedural law and other questions under Justice and Home Affairs. He may be right, particularly about the composition of the Commission. In the light of critical remarks made by Jacques Chirac and others about the 'excessive' concessions that the Presidency had made to Tony Blair in connection with *qmv*, it is however quite possible, if not likely, that battle will be resumed in this area, as well as Council voting. If that happens, nobody can be quite certain how things will pan out, particularly if, as appears all too probable, a weakened Tony Blair has to keep critics within his own party as well as the official opposition at bay.

The Irish Presidency is due to report on the next step at the European Council in March. There will therefore be no resumption of negotiations before then. As the European parliamentary elections will follow in June, it would appear very unlikely that the heads of state

and government will want to take the risk of another breakdown before the voters go to the polls. The earliest practical period for another try would seem therefore to be the second half of June.

Failing that, responsibility will pass to the Dutch, who will hold the Presidency in the second half of the year. If that happens, they will be under considerable pressure to finish as soon as possible for at least two reasons: the fact that there will probably be elections in Poland in March, 2005 and the growing likelihood if the constitution is not agreed that debate about it will become increasingly tied up with negotiations concerning the future of the EU's finances.

It would therefore be rash to predict when, or even whether, the EU will acquire a constitution. There are several conceivable compromises floating around, which would, at one and the same time, safeguard the essentials of the draft constitution and give the Poles and Spaniards at least some of what they want. Whether or not these or indeed any other compromise will work, will however depend on the political will of the principal protagonists.

The Presidency- whether Irish or Dutch-will of course have an important role to play, and one can be confident that both Bertie Ahern and, if necessary, Jan Peter Balkenende will make a better job of it than Silvio Berlusconi did. As this paper has demonstrated, however, the opportunities of the Presidency will always depend to a large extent on the willingness to cooperate of those whose interests or prestige are most involved. The political situation in Madrid, following the March elections, or in Warsaw, where Leszek Miller is still under siege, will therefore matter greatly. For reasons that should now be apparent, the difference between success and failure will depend still more however on how France and Germany decide to play the game.

Magnanimity in victory is more easily displayed in rhetoric than in action. Both the German chancellor and his French colleague may be victors. They will only become leaders of the new EU, if they succeed in changing their tone and developing new policies in areas as diverse as the debate about the future of the stability and growth pact, bilateral relations with Poland and Spain, further bridge building to the UK, and the reform of the Union's finances. Above all they will need to show that they want enlargement to work, which in turn will mean demonstrating that their more conciliatory rhetoric about core Europe immediately after the Brussels meeting was serious.

It is a tall order. Neither leader is famous for consistency. Both are better at tactics than strategy. There is however enough about the remaking of the Franco-German axis in the past eighteen months to suggest that they are well aware of what is at stake. France and Germany are essential to the Union. The Union is also however essential to them.

Annex. The European Council of 12 December, 2003

The European Council at Brussels on 12 December was a non-event. The heads of state and government galloped through the draft Conclusions in little more than an hour.

The Conclusions are nevertheless of above average length and required a considerable amount of Coreper time to produce. A straw poll of weary permanent representatives shortly before Christmas resulted in estimates ranging from twenty to forty hours of actual meetings. In and of itself, this might have been no bad thing. The Seville reforms were after all designed to make Coreper and the General Affairs and External Relations Council do the work that the heads of state and government did not need to do.¹⁷ The trouble on this occasion however was that the Presidency obliged ministers and permanent representatives to do a very great deal that even they did not need to do. Rarely indeed can so many have laboured for so long to produce so little of genuine interest. Far from upholding the spirit of Seville, the Italian Presidency totally subverted it.

The Conclusions which, if the 'late extra' news items are included, run to 34 pages, are divided into six sections.

- I Economic Growth
- II Freedom, Security and Justice
- III Enlargement
- IV Cyprus
- V External Relations, CFSP, ESDP
- VI Other Decisions

There are in addition four annexes, three of which were added between 11 and 13 December. The first is a declaration on transatlantic relations, the second a statement incorporating the agreement between France, Germany and the UK on European defence, the third an additional Conclusion regarding the location of EU offices and agencies and the fourth a four liner registering the failure of the IGC and the request to the Irish Presidency to 'make an assessment' and report to the European Council in March.

The Conclusions have two main purposes: to tell the world what the Italian Presidency managed to do during its six months in charge and to advertise the particular enthusiasms of a number of key figures in the Berlusconi government. Expressed less diplomatically, the principal characteristics of the document are self-congratulation and self-indulgence. There are some serious points tucked away in

¹⁷ See Peter Ludlow. *The Seville Council*. EuroComment, Brussels, October 2002.

obscure corners, but the Conclusions as a whole are a Christmas tree, festooned with baubles and tinsel, that Coreper should not have been asked to spend so much time adding to the tree, and which were scarcely worthy of consideration by the heads of state and government. As at the European Council itself the Italian prime minister allowed his colleagues less than a minute a paragraph, one can only suppose that he too was conscious of the vacuity of the document, though this did not prevent him from making one of the longest and most boring presentations in recent memory at the press conference that followed.

Anybody seeking to sample this bizarre offering should turn to section II which deals with Justice and Home Affairs. In nine out of the ten paragraphs in the two sub-sections dealing with border management and the control of migratory flows, the key phrase is 'the European Council welcomes'. As for the remaining sub-section, entitled the 'Interfaith Dialogue', the only explanation that some admittedly rather tired survivors of the Coreper ordeal could give for the prominence given to the subject was that the minister concerned was 'a very religious man', who had showed a strong, personal interest in the Conference on Interfaith Dialogue in Rome at the end of October. As one of his colleagues put it, it was one of several subjects that Umberto Vattani, the Italian permanent representative, conjured out of thin air, following one of his frequent and interminable telephone conversations with political cronies in Rome.

Even the section on Economic Growth only serves in the last resort to highlight the irrelevance of the Conclusions. As with Justice and Home Affairs, the Italian Presidency did not do at all badly in pushing matters forward. It was always apparent, however, that, the European Council's calendar being what it is, decisions on virtually every aspect of the growth initiative would be best taken in the process leading up to the Spring Council. The Conclusions only confirm the point. They are essentially little more than a report on work in progress. The Spring Council is referred to explicitly at several points, but even when it is not, it is always there in the background. All that these fifteen paragraphs do in reality is to urge the Commission, the Council, the EIB and everybody else concerned to 'keep up the good work'.

Finally, by way of illustration, the extremely long section on External Relations- fifty paragraphs- covers almost every conceivable topic with virtually no practical effect. The coverage is in fact so comprehensive- from the Western Balkans to North Korea, from Iraq to China, from Russia to Latin America and the Caribbean, and from transatlantic relations to the Olympic Truce,- that some of the EU's partners wondered whether it was significant that they were not mentioned.

These Conclusions are in other words a step backwards, not simply to the period before Seville, but to the worst of the bad old days, when the European Council was required to consider everything, with the result that it had time to deal with nothing. A certain amount of boasting is legitimate. So too, up to a limit, is exhortation. The trouble with this set of Conclusions is that its authors acknowledged no limits and therefore ended up trying everybody's patience and wasting everybody's time.

This is a pity for many reasons, not least because the Italian Presidency was in general far from incompetent or unproductive. This is not the moment in which to enter into a detailed justification of this claim. Suffice to say, the great majority of Italian officials who, as is the case with every Presidency, were required to do the bulk of the work, carried out their duties diligently and effectively. Some of the ministers were also as good as any of their counterparts in other recent presidencies have been.

The basic problem, as, on the eve of the Italian Presidency, a previous Briefing Note predicted that it might be, was at the top.¹⁸ The prime minister in particular did not appear to have any serious understanding of his role and therefore was constantly unserious in performing it.¹⁹ Important questions have also been raised about the quality and consistency of the rest of the 'management chain', though the work done in Coreper 1 has been widely praised. For better or for worse, however, it is the head of government or state who nowadays tends to set the tone, and therefore determines the overall reputation of a presidency. In the Italian case this was bad news for everybody.

A few remarks in closing about five points in the Conclusions, which, despite everything, are important. They are taken in the order of their coming and not necessarily in the order of their importance.

- *Bulgaria and Romania.* (paragraphs 34-37) The Bulgarian government in particular has repeatedly tried to persuade the European Council to harden its commitments towards Bulgaria and Romania- with considerable success.²⁰ At the Brussels European Council, the Bulgarians hit the jackpot.

¹⁸ *Briefing Note 2.2.* The Italian Presidency of the European Union : clear priorities but an uncertain delivery system., 12 June 2003.

¹⁹ It would nevertheless be profoundly misleading to fall into the habit of sections of the Anglo-Saxon press who have depicted the prime minister as a gaffe prone buffoon. To take only one, particularly notorious example, the episode in the European Parliament in July during which Berlusconi described a German critic as a suitable candidate for the role of a concentration camp commandant in a television series. Television reports tended to give the impression that the prime minister's comments were a 'spontaneous' and by implication unconsidered reaction. In actual fact, there was a gap of two hours or more between the two interventions. Although therefore Berlusconi's remarks were totally unserious, they were far from being unconsidered. .

²⁰ See Peter Ludlow. *The Making of the New Europe*.

Having struggled to convince the Commission to name one date, they ended up with five.

The European Council agreed that the aim should be to conclude the negotiations in 2004, to sign the Accession Treaty 'as soon as possible in 2005' and to welcome Bulgaria and Romania as members in January 2007. In addition, the Commission was 'invited' to submit its proposals regarding the financial framework for Bulgaria and Romania 'at the beginning of 2004', so that, after due consideration by the Council, the 'present Commission' would be in a position to draft common positions on the chapters concerned in the Spring of 2004. Finally, for good measure, and with the Bulgarians very much in view, the European Council stressed yet again that each case would be considered 'on the basis of own merits'. From a Bulgarian standpoint, it would be difficult to think of what more the heads of state and government could have said.

The Bulgarians worked hard for these assurances, in Rome, Brussels and by no means least Naples, where, during the end of November foreign ministers' meeting, the foreign minister lobbied every one of his colleagues. They could not have achieved what they obtained however without very strong support from the Italian Presidency and several member state governments, including in particular the Greeks, who have been consistently helpful and, more surprisingly, the Dutch, who strongly endorsed the inclusion of the phrase concerning 'own merits', on the *a priori* grounds that 'block' accessions are a bad thing and should never again be contemplated.

One final point, the paragraphs in question were a done deal before the heads of government and state met, and were not therefore discussed by them.

- *Turkey and Cyprus.* (paragraphs 38-41) With elections in northern Cyprus due within days, there was some hope that chances of a settlement on the island before the Republic of Cyprus joins the EU on 1 May, 2004, might revive. The European Council therefore sent a four point message. Firstly, it would prefer to admit a reunited Cyprus to its ranks. Secondly, with this objective in view, it called for 'an immediate resumption' of the UN sponsored talks. Thirdly, it reiterated the promise made at Copenhagen, that the northern Cypriots would be treated generously within the Union, both financially and politically. Fourthly, it 'underlined the importance of Turkey's expression of political

will to settle the Cyprus problem' and indicated that a settlement on the island 'would greatly facilitate Turkey's membership aspirations'.

These points were predictable, necessary and important. The EU's leverage on the island and in Turkey itself has always been central to the calculations of the UN Secretary General and Alvaro de Soto, his special adviser on Cyprus.²¹ With the EU's commitment to begin negotiations with Turkey 'rapidly' after December 2004, if the Commission concludes that Turkey is ready, the links with Turkey's own application for membership were particularly apposite.

At the time of writing, the future is still obscure. The elections in northern Cyprus gave the pro-EU forces a narrow majority of the popular vote, but an equal share of seats in parliament. It was somewhat encouraging that Ralf Denktash subsequently asked the leader of the opposition parties to try to form a government, but otherwise the language both on the island, and in mainland Turkey has ranged from ambiguous to negative. A meeting on 8 January 2004 in Ankara of the president, the prime minister, the foreign minister, the chief of the general staff and the head of the state security services was chiefly notable for two reasons. The first was that, although the meeting was advertised in advance as a meeting about Cyprus, the northern Cypriot prime minister designate and his colleagues were invited so late that there was no practical opportunity for them to join in. Secondly, though apparently ready to welcome 'the goodwill mission' of the UN Secretary General, the Turkish leaders called for a settlement on 'the basis of realities' rather than on the basis of the Annan plan.

A further, more detailed statement of Turkish policy has been announced following a meeting of the National Security Council on 23 January. Given Turkey's obvious interest in keeping the EU happy in the months before its own case is considered, there must still be some possibility of a breakthrough, but they do not appear to be very strong and time is running out.

- *The European Security Strategy*. (paragraphs 83-86 plus SN 3587/1/03). A draft paper outlining an EU security doctrine was submitted by Javier Solana to the Thessaloniki Council in June, 2003, where it was well received. Solana was

²¹ See *The Making of the New Europe* for detailed discussion of developments in 2002 and the very beginning of 2003.

therefore asked to come back with a finished version at the December European Council.²²

In the weeks and months that followed, the paper and its authors continued to receive accolades from foreign ministers, officials and non-governmental experts in universities and think tanks. Despite a long and elaborate attempt in the *Financial Times* of 5 December to suggest that the final version is significantly 'softer' than the earlier draft, because the 'French and the Germans' managed to get at the robust draft produced by Robert Cooper, the senior British official who now heads the External Relations Directorate General of the Council Secretariat, there are in fact no significant substantive differences between the two.²³ Which is not particularly surprising, because, following the very warm reception that the paper received from foreign ministers in June and July, Solana decided to restrict changes to the minimum.

No security doctrine can or should become holy writ. This is however a very promising benchmark document, against which specific EU initiatives will hopefully be tested in future. Some of the most interesting points raised by the paper appear in Section III, which discusses policy implications. How for example will or should the EU develop a 'system that combines the (diplomatic) resources of member states with those of the EU institutions'? What will the 'strategic partnerships' with Japan, China, Canada and

²² See *Briefing Note*. No. 2. 3 July, 2003.

²³ Two *Financial Times* articles dealing with the same subject appeared on 5 December. The first was entitled 'Europe set to obtain softened security doctrine', and the second, which was much longer, carried the title, 'Europe's war of words'. A detailed textual analysis lies beyond the scope of this note, not least because it would entail comparisons between the two articles, which though by the same author differ in several important respects. Three observations, based on the longer article, must therefore suffice. Firstly, when discussing the EU's response to the new threats that face it, the author claims that 'the possible use of first-strike military action has been removed'. In reality, the final version of the Solana paper employs exactly the same language as the earlier one, when discussing the EU's response to the new threats that face it. 'Our traditional concept of self-defence....was based on the threat of invasion. With the new threats, the first line of defence will often be abroad.... This implies that we should be ready to act before a crisis occurs. Conflict prevention and threat prevention cannot start too early.' Like the first draft the second also speaks of the need for 'a strategic culture that fosters early, rapid and when necessary robust intervention'. Secondly, the claim that 'most tellingly, references(plural) to pre-emption have been excised' is somewhat misleading, to say the least. It is true that the single reference to pre-emptive action has been removed, but as the word was used in connection with trade and development policies in the first draft, it is hard to regard this as of earth-shaking consequence, particularly as the overall argument in this section of the paper is unaffected. Thirdly, the claim that the later document, in contrast to the first, places the principal emphasis on intervention through multilateral institutions is simply not true. Both place an equal emphasis on the role of multilateral institutions. It is in short very difficult to see how the later version can be categorised as soft, and the earlier one as hard. It is even more difficult to grasp how, in the words of one of the experts who is quoted in the piece, 'this shows that Britain, France and Germany have got to overcome their fundamental differences over how to respond to crises'.

India actually do and how if at all will strengthening them affect the role of the EU and its member states in the UN, not to mention transatlantic relations? We are in other words still in the early stages of a debate about European, as distinct from merely national interests, which is long overdue.

- *European defence.* (paragraphs 87-89 plus SN 308/03) Although in the post-European Council press conference the Italian foreign minister appeared to claim an important role in steering the Union away from the follies symbolised by the mini-summit of four EU members in Brussels on 29 April 2003, towards the sensible, consensus position set out in these papers, the latter are in fact the outcome of a complex and difficult negotiation between the big three, France, Germany and the United Kingdom. The background has already been discussed elsewhere.²⁴

The negotiations were never easy. The end product is however a genuine compromise, with which all three principals have every reason to be satisfied. The language about the role of NATO is strong, though no stronger than in previous ESDP documents. The links between the EU military staff (EUMS) and SHAPE will furthermore be strengthened by the establishment of a 'small EU cell' at SHAPE and NATO liaison arrangements at the EUMS. The British and the other 'Atlanticists' should therefore be reassured.

So too however should the 'Europeans'. The capacity of the EUMS 'to conduct early warning, situation assessment and strategic planning' is to be enhanced through the creation of a 'cell with civil/military components'. The cell is to have various functions, including 'linking work across the EU on anticipating crises,....assisting in planning and co-ordinating operations, developing expertise in managing the civilian/military interface, planning joint civil/military operations and reinforcing national HQs' in conducting autonomous EU operations.

As far as operations are concerned, the agreement describes the national HQs in France, Germany, the UK and possibly elsewhere, as the main option, when an autonomous EU operation is mounted. 'In certain circumstances', however, the Council may decide 'to draw on the collective capacity of the EUMS'. If and when this happens, 'the civil/military cell

²⁴ See *The Making of the New Europe* for the background in 2002 and *Briefing Note 2.7.* for the more immediate context.

will have responsibility for generating the capacity to plan and run the operation'. Although therefore the EUMS is not, as the paper says, 'a standing HQ, it will, in agreed circumstances, be responsible for operations as well as planning.

It is pointless trying to assess who 'won'. It is not however surprising that the French and their closest allies were well pleased. 'We have', as a 'mini-summit' diplomat observed, 'got our foot firmly in the door, and they won't be able to close it again.' They have also, no less important, ensured that the UK is on side, which, given Britain's significance in European if not global perspective as a military power, is a highly welcome development. To what extent and when the door is pushed further open will depend on political will inside the EU and developments outside. The latter could take the form of a crisis in Europe's extended backyard. The next step forward could however equally well be provoked by the re-election of George Bush, who is well on the way to becoming a godfather of the new Europe, albeit for reasons that are not particularly flattering.

- *The location of EU offices and agencies.* (Separate Conclusion added after the meeting on 12 December.) The agreement on the location of nine offices and agencies was something of a coup for the Italian Presidency, firstly, because other presidencies had tried and failed, and secondly, because the Italians themselves secured the European Food Safety Authority for Parma. It looks as though the officials concerned will find the local, Parmalat owned football team less impressive than it used to be, but they will at least be able to sample the delights of Italian cuisine, of which Berlusconi spoke so memorably at Laeken in December 2001.²⁵

It is still difficult to understand how and why the new Finnish prime minister was prevailed upon to trade the European Food Safety Authority, which already exists, for the European Chemicals Agency, which figures only in a Commission proposal of 29 October. This was not the only climbdown since the last battle of the seats however. The French, for example, conceded the Maritime Safety Agency to Lisbon, despite the fact that only two years earlier Jacques Chirac had intervened to ask 'how on earth can Lisbon be regarded as an appropriate place for the maritime agency?' The Swedes, by contrast, should be pleased that they will get

²⁵ See Peter Ludlow. *The Laeken Council* pp.161-164. This section contains background information on previous 'battles of the seats'.

the European Centre for Disease Prevention and Control, since the Belgian Presidency was not inclined to give them anything at Laeken.

Since the Brussels Council, the Italian government has made a great deal at home of its successes in connection with the 'growth initiative' and the location of the Food Safety Authority in Parma. This is understandable. What is more depressing is the fact that the Italian media have apparently accepted this gloss on events. For most of us however, the meeting in Brussels of 12 and 13 December 2003 will remain permanently associated with the breakdown of the IGC. The European Council by contrast will quickly become no more than a vague memory.