

The French EU Presidency 2008 – what to expect

The upcoming French Presidency of the EU, which begins on 1 July 2008, promises to be busy and extremely ambitious.

Nicolas Sarkozy's top priorities for the six months include:

- 1) Laying the groundwork for an EU defence force and common EU defence policy;**
- 2) Forging a common EU immigration and asylum policy;**
- 3) Setting up the new institutions set out in the Lisbon Treaty – e.g. appointing a new EU Foreign Minister and a permanent EU President ready to start work in January.**

Other priorities for the Presidency are: reaching agreement on EU proposals to combat climate change; protecting French agriculture in negotiations on the CAP; and thrashing out the shape of the proposed "Mediterranean Union."

Sarkozy intends to use the Presidency to prove that "*La France est de retour en Europe*", meaning there will be no shortage of high-profile efforts towards further EU integration – particularly where defence is concerned.

If the revised EU Constitution is ratified, this will be one of the last six-month rotating EU presidencies before the job is handed over to a single person for two and a half years at a time. The French are planning to see it out with a bang. As the author of the Constitution Valéry Giscard d'Estaing has said: "Let's celebrate the fact that France has been called to be one of the last countries to exercise a rotating Presidency."¹

The French government has set aside a budget of €190 million for the six-month Presidency. By comparison, Britain spent around €13 million on its EU presidency three years ago. It says that around half of this will be spent on meetings.²

¹ Le Point, 6 March 2008

² Europe Minister Jean-Pierre Jouyet, Speech, 26 February 2008

<https://pastel.diplomatie.gouv.fr/editorial/actual/ael2/bulletin.asp?liste=20080228.html#Chapitre5>

1. MOVES TOWARDS AN EU DEFENCE

“As it presides over the EU in the second half of 2008, France, if it is willing, must show persuasion and energy in order to encourage its partners – most of whom are satisfied with the security umbrella offered by NATO – to re-launch European defence. France will have the new tool of reinforced cooperation at its disposal, which allows a group of countries to create an avant-garde. It will therefore be a test of the conviction expressed by Nicolas Sarkozy to make defence the condition and the lever for the re-launch of political Europe. Perhaps one day it will dare to speak of a ‘European army’.”

- Le Monde, 16 July 2007

“The EU Presidency, which France will assume on July 1, must allow us to open new perspectives in the field of security and defence, to fight against terrorism and proliferation more effectively, to reinforce our energy security, and to prepare the implementation of permanent structured cooperation open to all 27 member states, as made possible by the new treaty. We will resolutely strive toward that aim. We are already preparing ourselves under the Presidency of our Slovenian friends. This progress will give full meaning to the renewal of our relationship with NATO.”

- Bernard Kouchner, French Foreign Minister, IHT, 10 March 2008

“Europe will be radiant, she will be a political power if she has the necessary tools in terms of defence.”

- Jean-Pierre Jouyet, French Europe Minister, speech, 6 March 2008

“The basis for a European Defence exists. We must make it grow. I want Europe to be capable of ensuring its security autonomously.”

- Nicolas Sarkozy, EUobserver, 16 July 2007

“With the common currency, we have created a strong symbol for Europe. But nothing can better express the European community of fate than common defence, a common sense of Europe's threats and security interests.”

- Hervé Morin, French Defence Minister, EUobserver, 13 November 2007

France has great ambitions for defence policy during its EU Presidency – in fact this is probably Sarkozy's top priority. According to a report in Le Monde, he is planning a “Saint-Malo mark two” – a reference to the groundbreaking 1998 agreement between France and the UK which re-launched moves towards a European Defence.³

³ 13 September 2007

In preparation for the French Presidency, the well-connected French MP Pierre Lellouche, who is the Delegate General for Defence in Sarkozy's UMP grouping, revealed the plans recently in an article in Le Figaro.⁴

Lellouche laid out several "proposals for giving the EU a common defence", saying, "The time has come for the French Presidency to seriously prepare to articulate the main lines, making them as concrete as possible, of a future European defence architecture." French Europe Minister Jean-Pierre Jouyet has also been forthcoming about France's big plans for defence in a series of recent speeches.

Despite intending to put forward hugely ambitious and controversial proposals during its Presidency, France has indicated that it plans to play them down to some extent to avoid jeopardising the ratification process of the EU Lisbon Treaty, particularly in the UK. As the Economist noted last week:

"The French, mindful of British Euroscepticism, are taking care not to push Europe's nascent defence project too hard before Britain ratifies the Lisbon treaty this summer."⁵

Elements of the French Defence proposal

i) Using "Permanent Structured Cooperation" in the Lisbon Treaty to create a common EU army

Lellouche's central proposal was that "Common defence can only move ahead around a hard core of 'strengthened cooperation', a G6 composed of the principal nations: France, UK, Germany, Spain, Italy, Poland, and the others could join the 'pioneer' group at any moment."

In practice, this means using the provisions for "permanent structured cooperation" in the Lisbon Treaty⁶ to make proposals for a hard core of "strengthened cooperation" involving a group composed initially of the principal European powers: France, UK, Germany, Spain, Italy and Poland. France wants each G6 nation to contribute 10,000 troops to a 60 000-strong "common intervention force" – in what would in effect be the first steps towards a common EU army.

France believes the group should adopt an objective of 2 per cent of GDP for defence budgets.

What would the 60,000 force be used for?

Given the ongoing problems surrounding the commitment levels of key EU allies to the NATO mission in Afghanistan, and the apparent reluctance of some European forces to

⁴ 31 January 2008. See <http://www.europeanvoice.com/current/article.asp?id=29809> for the most recent story about the French plans.

⁵ 19 March 2008 http://www.economist.com/world/europe/displaystory.cfm?story_id=10881128

⁶ Articles 42 [28a] and 46 [28e] TEU of the Lisbon Treaty provide for the establishment of a special sub-group of member states "whose military capabilities fulfil higher criteria and which have made more binding commitments to one another in this area with a view to the most demanding missions". This provision for so-called "permanent structured cooperation" within the EU framework would allow neutral countries to opt out, and create an "inner core" of EU members interested in taking forward military integration (nb. all of these provisions were in the old Constitution). The group would be set up by majority vote.

engage in combat operations in the country, is it sensible to allow the EU to have an equal right to call on the same troops that NATO wants to use?

Judging by recent EU military interventions, the force is likely to be used for missions like the controversial Chad expedition. The *FT*'s Brussels correspondent, Tony Barber, recently reported that some EU capitals, particularly Berlin, are wondering whether the EU's mission to Chad is turning into "a prop for French foreign policy in a former African colony...The Chad conflict pits a French-supported ruler - dictator, some would say - against a rebel movement that doesn't want an EU military presence there. For the life of them, the Germans fail to see how it can be in their national interest to jump into this maelstrom."⁷

Berliner Zeitung also expressed scepticism about the stated aims of the mission: "The Chad mission is not what it seems. What, then, is it? France, the former colonial power in Chad, is contributing the largest contingent. France protects the rebel, dictator and Gadhafi-sidekick Idriss Deby, both of whom launched a coordinated invasion of Darfur at the end of the '80s. France keeps its military staging point for Africa in Chad along with the continent's longest airstrip. Now President Sarkozy has used massive pressure to 'Europeanize' the deployment to Chad, though the more precise word is 'camouflage.' So, why the big charade? Strategically speaking, Chad is one of the three most important countries in Africa, next to Djibouti and Eritrea, both of which are near the sea passage to the Gulf. Chad's neighbour Niger has vast amounts of uranium, and there are vast amounts of oil in three other neighbors - Nigeria, Libya and Sudan. So, we have to go there! Good thing Germany refused to send soldiers."⁸

What would the proposals mean for the UK?

In simple terms, the UK would have to earmark 10,000 frontline troops for service on EU missions. For the EU force to be viable UK troops would need to be constantly available for EU operations. The fact that the UK is one of the few EU countries to have modern combat forces is likely to mean that the UK would have to keep its 10,000 in the UK/EU. Given the UK's current military overstretch, the plans would almost certainly divert vital resources away from the British mission in Afghanistan.

Will the UK go along with it?

The UK now appears to be in favour of the idea, despite initial opposition. UK Europe Minister Jim Murphy recently told *Le Monde* newspaper that he supports plans for an independent EU defence policy. Following an interview with Murphy, the paper reported, "Mr. Murphy recognises that Europe needs its own defence," and quoted him saying "because we cannot always depend on the US, especially when it's about European problems."⁹

An article in *European Voice* also reported that the UK is in favour of French ideas to push ahead with "permanent structured cooperation", and cited an EU official saying that the idea had been included in the Constitution because "the UK and France wanted it

⁷ <http://blogs.ft.com/brusselsblog/2008/02/hanging-by-a-th.html/>

⁸ Quoted on: <http://www.spiegel.de/international/germany/0,1518,531792,00.html>

⁹ 14 March 2008

in”, adding that the UK saw the initiative as “a way of leveraging extra [military] capabilities” from some member states.¹⁰

The French plan to make sure the proposals will be carefully worded so as to avoid causing problems for the ratification process for the Lisbon Treaty. After outlining his defence plans for the EU Presidency recently, Europe Minister Jean-Pierre Jouyet added: “We will obviously take care not to jeopardise the ratification process of the Lisbon Treaty, because we know that in certain countries these issues are sensitive.”¹¹

It is worth noting that when the original EU Constitution was being negotiated, the UK Government vehemently opposed the “permanent structured cooperation” provisions. However, the Government failed in its attempts to remove the provisions from the Constitution, and after the meeting between the UK, France and Germany in October 2003, the UK agreed to back the idea in return for assurances that member states could not be excluded from the group if they wanted to join and met the criteria.

Having lost the battle to keep the “permanent structured cooperation” provisions out of the Treaty, the Government has reversed its position. Ministers now say that the UK was in favour all along: “The Treaty will introduce ‘Permanent Structured Cooperation’, which will provide for an inclusive process focused exclusively on the development of military capabilities, a key UK objective.”¹²

However, as a report by the House of Commons Defence Committee last week concluded: “We remain to be convinced that PSC will deliver such improvements in practice. European nations have so far shown little appetite in investing sufficiently in defence.” They also said: “It is essential that permanent structured cooperation does not lead to the development of a two – or three – tier Europe in defence matters. This would be counter to the interests of NATO.”¹³

The Government is clearly hoping that no one realises that PSC is the route to a European army, as the inevitable controversy could disrupt its plan to ratify Lisbon in Parliament.

ii) An independent EU military planning cell

France is also keen for the EU to have its own independent military planning capability, set up in Brussels – something which the UK has long opposed. In a speech in March on the French Presidency Europe Minister Jean-Pierre Jouyet said: “We propose that Europe acquires the operational means for intervention with a planning centre in Brussels.”¹⁴ French Defence Minister Hervé Morin confirmed: “An own planning staff in Brussels forms part of our ideas.”¹⁵

¹⁰ 15 February 2008 <http://www.europeanvoice.com/current/article.asp?id=29809>

¹¹ Speech, 6 March 2008

<https://pastel.diplomatie.gouv.fr/editorial/actual/ael2/bulletin.asp?liste=20080317.html>

¹² http://www.fco.gov.uk/Files/KFile/CM7174_Reform_Treaty.pdf page 9

¹³ House of Commons Defence Committee: “The future of NATO and European defence” Ninth Report of Session 2007-08. Page 99

¹⁴ 6 March 2008 <https://pastel.diplomatie.gouv.fr/editorial/actual/ael2/bulletin.asp?liste=20080317.html>

¹⁵ EUobserver, 13 November 2007

This is controversial because it threatens to duplicate the existing operational planning centre that NATO has in Brussels – known as SHAPE. As an article in French daily *Les Echos* on the Presidency noted recently: “Nicolas Sarkozy would like to create in Europe a permanent command structure, which would compete with NATO.”¹⁶

It was one of the major bones of contention during the negotiation of the 1998 St. Malo Declaration, which said that the EU ought to have the capability for “autonomous action backed up by credible military forces”, with “a capability for relevant strategic planning”. However it also stipulated that this was to happen “without unnecessary duplication” of NATO’s planning capacity. A further planning centre would clearly duplicate NATO facilities.

iii) Rejoining NATO – to boost independent EU defence initiatives

Nicolas Sarkozy also plans to bring France fully into the integrated command structure of NATO, saying France should play “a full role” in the alliance, and calling for a “renovation of NATO”. Discussions are underway in Paris, Washington and NATO headquarters in Brussels on France’s conditions for a return to full NATO membership, and may be concluded this year.

But the French return to full NATO membership is based on an explicit quid pro quo – France’s main objective in seeking to rejoin NATO’s military structures is to garner support for a more independent EU defence policy. This might even include a completely separate European command within NATO. In a visit to Washington in November Sarkozy made it clear to Congress that France would only rejoin NATO if the EU acquired a greater capacity to deploy troops and manage crises.¹⁷

In an interview with the New York Times Sarkozy laid down two conditions for France rejoining NATO’s military command structure: he said that EU defence must move forward, and that top positions in NATO should be reserved for French personnel.

He said: “I would make progress on a European defence a condition for moving into the integrated command, and I am asking our American friends to understand that... It is obvious that if we were to envisage such a move, it could only happen in as much as space was made in the leadership, at the highest level, for representatives of France.”¹⁸

French Europe Minister Jean-Pierre Jouyet reinforced this recently saying: “We want to make openings with regard to NATO... But let’s be clear, we are ready to make these advances only if they allow the strengthening of a real European security and defence policy.”¹⁹

As the President of the EU Military Committee, French General Bentégeat, has said “I think that if France normalises its relations with NATO, European defence projects will become easier to progress.”²⁰

¹⁶ 10 January 2008

¹⁷ FT, 11 November 2007 <http://www.ft.com/cms/s/0/ad3f06a0-907b-11dc-a6f2-0000779fd2ac.html>

¹⁸ 24 September 2007

¹⁹ Speech, 6 March 2008

<https://pastel.diplomatie.gouv.fr/editorial/actual/ael2/bulletin.asp?liste=20080317.html>

²⁰ Le Figaro, 26 September 2007

France is keen to garner British support for its plans for NATO. Ahead of the Anglo-French summit in London on 26 March, the Guardian reported that Nicolas Sarkozy “hopes to cement an Anglo-French axis to generate a new ‘critical mass’ driving EU foreign and security policy when he makes a state visit to Britain next week... He is keen to use the two-day visit to hasten an EU realignment before Paris begins its six-month Presidency in July... A key French aim is to elicit greater British enthusiasm for France's return to NATO's military structures. French officials have expressed disappointment at the lukewarm reaction so far.”²¹

Again – it seems the UK is keen to avoid backing this publicly until the Lisbon Treaty ratification is out of the way. In November the FT reported: “There are hopes in Paris that the Brown government might warm to the idea after the EU mini treaty – highly controversial in the UK – is ratified by Westminster next summer.”²²

iv) Common arms export control and purchasing policies

Pierre Lellouche also said that during the French Presidency the EU should begin to construct a “real common market” in armaments, and that there should be a “definition of a common European disarmament and arms control policy.”

Likewise, Jean-Pierre Jouyet said in his recent speech on the EU Presidency: “We are ready for an internal market and an arms agency at European level which will allow us to reinforce our industrial bases.”²³

In practice this is likely to mean supporting current moves by the European Commission to try and open up the EU's defence procurement market and export licensing regime.

The Commission has recently published a Communication proposing a Directive on defence procurement and a Directive on intra-EU transfers²⁴ of defence products. The UK Government has in the past said that it did not support the development of a specific procurement directive, saying it was unlikely to support the Government's aim of making defence markets more effective and efficient.²⁵

The directive on intra-EU arms transfers is particularly controversial at the moment, and the UK Government recently expressed its doubts about it. In a reply to a report by the EU Scrutiny Committee, Malcolm Wicks, the Minister of State for Energy at the Department for Business Enterprise & Regulatory Reform, appeared to support several important concerns raised by the Committee about the draft directive, including a concern that the proposal posed the risk that UK would find itself no longer able to rely on Article 296 EC²⁶ to justify the making of bilateral agreements with third countries (including NATO members) in relation to the licensing of exports of military equipment.

²¹ 20 March 2008 <http://www.guardian.co.uk/world/2008/mar/20/france.eu>

²² FT, 11 November 2007 <http://www.ft.com/cms/s/0/ad3f06a0-907b-11dc-a6f2-0000779fd2ac.html>

²³ 6 March 2008

²⁴ Draft Directive on simplifying terms and conditions of transfers of defence-related products within the Community

²⁵ <http://www.publications.parliament.uk/pa/cm200708/cmselect/cmeuleg/16xi/1605.htm#note19#note19>

²⁶ which allows a member government, for reasons of national security, to disregard EU procurement rules when buying defence equipment.

He agreed to look into these important reservations, but the directive will eventually be decided on by QMV.²⁷

The French EU Presidency is also likely to move forward with a plan which would directly create a “common arms export policy” – based on a proposal which was recently passed by the European Parliament.

v) Harmonisation of military education

Another French proposal is to harmonise the training of troops throughout Europe. French Defence Minister Hervé Morin told German newspaper Frankfurter Allgemeine Zeitung "I could also imagine a sort of military Erasmus programme with an institutionalised exchange of professional soldiers within the EU. Of course this would require a harmonization of military education, at least at the start of careers."²⁸

vi) ‘Europeanised’ defence planning and infrastructure

Pierre Lellouche also revealed that defence planning and infrastructure should be “Europeanised”. Lellouche called for the "Europeanisation" of member states' external military bases and the establishment of "a common plan for protection of populations in case of terrorist attack by means of non-conventional weapons."

vii) Updating the EU Security Strategy

France has also talked about plans to update the EU's 2003 Security Strategy document during its EU Presidency, to take account of modern threats including terrorism and biological weapons. Jean-Pierre Jouyet has said: “We want to revisit the security strategy defined in 2003 in order to face up to the new risks, notably terrorist, health, biological and technological.”²⁹ France is due to produce its own White Paper on Defence in April – which will provide further clues as to how it intends to reshape the EU's security strategy.

²⁷ <http://www.publications.parliament.uk/pa/cm200708/cmselect/cmeuleg/16xv/16xv.pdf>

²⁸ EUobserver, 13 November 2007

²⁹ Speech, 6 March 2008

2. A SINGLE ASYLUM POLICY AND MOVES TOWARDS A COMMON EU IMMIGRATION POLICY

“For Europe, as for other countries, there is a demographic evolution taking place, and, therefore, a management of migratory flows is to be conceived among the 27 taking a global approach which brings together all the different dimensions: co-development, integration, economic, social and cultural factors. In Europe there needs to be a more convergent approach to these subjects, and one that is balanced. That is the premise of the European Pact for Immigration and Asylum which will be brought forward by France during its Presidency. Regarding the issuing of visas, exchanging experiences of integration or the law and the rules relating to asylum policy, we want it to be not the vagaries of life which decide things, but a number of better coordinated procedures.”

- Jean-Pierre Jouyet, French Europe Minister, speech, Brussels, 26 February 2008³⁰

The second of France's big initiatives during the Presidency will be moving ahead with proposals for a common EU immigration and asylum policy. Specifically, France will present its idea for a Common “European Pact” on Immigration and Asylum.

On a visit to Madrid in October French Immigration Minister Brice Hortefeux announced that the pact would involve “the refusal of mass regularisation”, “harmonisation of asylum regimes” and “negotiations on readmission agreements.”³¹

Jean-Pierre Jouyet has said: “We must also have convergence in asylum policy... It's a difficult issue because the cultures and sensitivities concerning asylum policy are different. We will try to shape a common approach to asylum policy.”³²

However, Brice Hortefeux has talked about a single definition of asylum. He said the “European Pact” will involve “sketching out a common definition of the right of asylum.”³³

France also wants to bring forward proposals for increased border surveillance. According to Jean-Pierre Jouyet: “The emphasis must be on border controls.”³⁴

Jean-Pierre Jouyet said: “We must also organise legal immigration according to the EU's economic and social situation. There are proposals from the Commission in this area that we support and we must ensure that these proposals, which are balanced, can succeed under the French Presidency and that there is a single procedure for the application of residence and work permits.”³⁵

³⁰ <https://pastel.diplomatie.gouv.fr/editorial/actual/ael2/bulletin.asp?liste=20080228.html#Chapitre5>

³¹ Le Monde, 9 March 2008

³² Jouyet, speech, 6 March 2008

³³ Le Monde, 9 March 2008

³⁴ Jouyet, speech, 6 March 2008

³⁵ Speech, 6 March 2008

This presumably means carrying forward the European Commission's controversial 'Blue Card' proposal, unveiled in October.³⁶

Indeed part of the French plan will be to increase the proportion of economic migrants coming to Europe. Nicolas Sarkozy has said these should make up 50% of entrants (compared to 7% currently in France). Spain has lent its support to the proposal: Spanish Immigration Minister Jesus Caldera told Mr. Hortefeux: "We must work to reach a balanced management of migratory flows, and that cannot be done without co-development. And it must be done with the help and support of the EU."³⁷

The French also want to press ahead with EU measures on illegal immigration, including common policies for issuing visas to nationals from approved third countries. Jean-Pierre Jouyet has said: "We must also organise active cooperation in the fight against illegal immigration. For that, we need common practices in the field of issuing of visas. There are different attitudes among European countries. We will endeavor to define common standards for the issuing of visas for the nationals of a certain number of countries." He said, "We must develop a common European approach regarding countries of origin – I am thinking of Africa, the Maghreb, and also our Mediterranean and central Asian neighbours."³⁸

In practice, all this means taking forward the Commission's recent initiatives in this area – which are far-ranging and controversial. In some respects the French ideas even go beyond what the Commission is planning – for example, Hortefeux's idea for a "common definition of the right asylum", which implies the replacement of national criteria to identify successful asylum applicants with an EU criteria. The ideas also anticipate the increased powers for the EU in immigration and asylum policy provided by the Lisbon Treaty.

In fact both of the Commission's main current proposals on asylum policy, for instance, constitute big steps towards a Common European Asylum System, which would become an explicit legally binding objective of the EU for the first time as a result of the Lisbon Treaty (Article 63).

Burden sharing

One of the Commission's biggest current plans is to create an asylum burden sharing arrangement among member states.

The Commission wants to amend the existing 'Dublin' system, and is due to set out its proposals in detail this summer. Set up in 2003, the 'Dublin' system created a process that determines which EU member state is responsible for the examination of an asylum application lodged in the EU. The key principle behind the system is that the member state where an asylum seeker first lodges their application should deal with the case. The idea is that this should stop secondary movements between member states (i.e. failed applicants in one member state from trying to claim asylum in another).

³⁶ <http://europa.eu/rapid/pressReleasesAction.do?reference=IP/07/1575>

³⁷ Le Monde, 12 March 2008

³⁸ Speech, 6 March 2008

The UK Government is a big supporter of the Dublin system because it thinks that it discourages asylum seekers from trying to come to the UK after their asylum application has been rejected in another member state, the UK being one of the more popular destinations for asylum seekers.

However, the EU Justice Commissioner, Franco Frattini, indicated before Christmas that he wants to amend the 'Dublin system' so that the EU can set up 'burden sharing' between member states on asylum cases. The Commission thinks that countries which have poor reception facilities for asylum seekers and have large numbers of applicants (e.g. Malta, Italy, Greece, Spain) should be able to transfer many of their cases to countries with better facilities that are not under the same pressure (e.g. UK and Germany).

The Government is very nervous about any legislation that amends existing EU asylum legislation like the Dublin system. Presumably this is because the Government knows that any burden sharing proposals are likely to be very contentious in the UK. Home Office Minister Meg Hillier said recently:

"We believe that it would be unwise to embark on introducing new legislation without a firm understanding of what works and what does not work within the existing instruments."³⁹

The Government is also nervous because it knows that once the Lisbon Treaty is ratified the Commission will have the powers it needs to propose a burden sharing system. According to the wording in the new Treaty, when the Commission proposes to amend an asylum measure like the Dublin system the amendment must give effect to the "principle of solidarity and fair sharing of responsibility, including its financial implications, between member states".⁴⁰

When the European Convention was being drawn up the UK Government twice tried to get this article amended to remove the idea of burden sharing.⁴¹ However the changes that the Government demanded were not made.

The new EU powers on burden sharing are particularly problematic for the Government because the UK's ability to 'opt out' of asylum measures is crucially undermined by another change created by Lisbon.

There is an arrangement under the current treaties which allows the UK to opt out of asylum measures on a case by case basis, but under a provision created by Lisbon, when amendments to an existing piece of asylum legislation are proposed where the UK has opted in (e.g. the Dublin system), it must either go along with the amended version or be thrown out of the existing legislation – i.e. keeping the status quo will not be an option for the UK. The Chairman of the Commons European Scrutiny Committee has described this as a "bullying clause."

³⁹ 19 November 2007 <http://www.theyworkforyou.com/debates/?id=2007-11-29a.493.0&s=speaker%3A10271#g499.4>

⁴⁰ Article 80 of the Treaty on the Functioning of the EU (created by Article 63b of the Lisbon Treaty)

⁴¹ Attempt one: <http://european-convention.eu.int/Docs/Treaty/pdf/848/13Hain.pdf>

Attempt two: <http://european-convention.eu.int/Docs/Treaty/pdf/848/Art%20III%20164%20Hain%20EN.pdf>

As the Government has said, it likes the existing Dublin system because it thinks it stops failed asylum seekers from coming to the UK from other EU member states. If the UK didn't go along with the burden sharing proposal the UK risks being thrown out of the Dublin system. The Commission could present the UK with a very unpalatable choice.

Reception Conditions Directive

In the next few months the Commission also intends to bring forward legislation to amend the existing Reception Conditions Directive. This sets minimum standards on what benefits and other welfare rights asylum seekers should get while their applications are processed. The Commission has decided that the Directive gives member states far too much discretion in the running of their asylum systems. In particular, the Commission is determined to "create a level playing field."⁴²

The amendments will replace a system of minimum standards in reception conditions – an approach traditionally favoured by the UK – with something much more prescriptive that reduces the freedom of member states to run their own system.

The Commission's evaluation report on the current Directive suggest that any amending legislation is likely to have a big impact on the UK. Amendments could include broadening access to the NHS, and broadening access to the labour market by getting rid of the UK requirement to apply for a work permit.⁴³

When MPs debated the measure in the Commons in 2002 the Home Office Minister responsible, Beverley Hughes, said "Reception conditions in the UK are broadly at or above the minimum standards proposed in the draft directive, and we do not expect to need to make significant changes to our reception procedures to comply with it once it is adopted."⁴⁴

Under a provision inserted into the Treaty at the last minute, when updates to existing legislation are proposed in areas of Justice and Home Affairs where the UK has opted in (e.g. the Reception Conditions Directive), it must either go along with the updated version or be thrown out of the existing legislation – i.e. keeping the status quo is not an option. So there would be pressure to continue to take part in the proposed update of the directive or risk being thrown out of the existing legislation.

Secondly, the current EU treaties only allow the EU to set *minimum* standards on reception conditions. This will change with the Lisbon Treaty. According to the new wording, Brussels will be free to set binding *uniform* standards.

⁴² http://eur-lex.europa.eu/LexUriServ/site/en/com/2007/com2007_0745en01.pdf

⁴³ http://eur-lex.europa.eu/LexUriServ/site/en/com/2007/com2007_0745en01.pdf

⁴⁴ Hansard, 17 June 2002 <http://tinyurl.com/2rr4xj>

3. IMPLEMENTING THE NEW INSTITUTIONS IN THE LISBON TREATY

Another challenge the French government has set itself for the EU Presidency is finding people to fill the new posts of EU Foreign Minister and EU President, which will be created if the Lisbon Treaty comes into force, as well as lining up a new President of the Commission for 2009.

Jean-Pierre Jouyet has announced: "We must prepare for the stable Presidency of the European Council, which will allow us at last to answer the question posed by Henry Kissinger several years ago: 'What phone number for Europe?'. The rotating presidencies will continue, because the member states must remain involved in European responsibilities so as not to give the feeling that everything happens in Brussels, in a disembodied way. That implies technical work which we have begun with our Slovenian partners and which we will pursue with our Czech and Swedish friends, with whom we are finalising a trio Presidency programme which will be presented in June."⁴⁵

While the decision will be made by a vote in the Council, the French will be looking to influence the decision as much as possible. Moreover, given that the exact role and mandate of the EU President and the EU Foreign Minister still remain to be decided, there is an opportunity here for the French to mould the post to a certain extent. Sarkozy wants a decision – which will be taken by qualified majority vote – by the end of the year.

Sarkozy has appeared to give his support to Tony Blair for EU President over the last few months, but there have been reports that his preferred candidate is in fact the fiercely federalist Luxembourg Prime Minister Jean-Claude Juncker. However one report said more recently that Juncker is considered in Paris as "an almost too perfect candidate", and that Sarkozy in fact prefers the idea of Danish Prime Minister Anders Fogh Rasmussen.⁴⁶ Several notable politicians close to Sarkozy on the centre-right have publicly made a case against a Blair Presidency, including former Prime Minister Jean-Pierre Raffarin.

Another name in the frame is Irish Taoiseach Bertie Ahern – however, he is currently bogged down in domestic scandals, and is thought to have previously turned down the Presidency of the European Commission.

According to Le Monde, Sarkozy is backing Jose Barroso for a second mandate as President of the Commission, and he is seen as almost certain to be reappointed.⁴⁷

Possibles for EU Foreign Minister include current High Representative for Foreign Policy Javier Solana, former German Foreign Minister Joschka Fischer, Swedish Foreign Minister Carl Bildt, Italian Foreign Minister Massimo D'Alema, French Agriculture Minister Michel Barnier, and former Belgian Prime Minister Guy Verhofstadt.

⁴⁵ Speech, 6 March 2008

⁴⁶ Le Monde, 21 February 2008 http://www.lemonde.fr/europe/article/2008/02/21/traite-de-lisbonne-l-union-europeenne-a-la-recherche-de-son-george-washington_1014070_3214.html

⁴⁷ 21 February 2008

The French will also continue efforts to prepare for the establishment of the “Common External Action Service” or diplomatic service contained in the Treaty. As Jean-Pierre Jouyet has said: “On 1 January 2009, Europe must have a much more visible exterior identity. Alongside the Commission and the European Parliament we must prepare the gradual establishment of the common external action service.”⁴⁸ Again, the details about how this new institution will be work, who and how many people will be involved and exactly what it will do still remain to be decided.

In January the current holders of the EU Presidency, Slovenia, circulated a document which showed that there were 31 important proposals in the Lisbon Treaty that remained to be fully fleshed out – meaning MPs ratifying the Treaty around Europe were effectively signing a blank cheque.⁴⁹

The French Presidency is likely to take on the task of proposing how some of these things will work – taking the lead on shaping how things will look from 2009 onwards.

For instance, Jean-Pierre Jouyet has alluded to the idea that France will think about sketching out ideas for further centralising European positions in international organisations. During a speech in February, he said: “We must ask ourselves, given the progress we have made with the Lisbon Treaty on the subject of institutions, how Europe can be more present in multilateral institutions and speak with a single voice.”⁵⁰

⁴⁸ Speech, 6 March 2008

⁴⁹ <http://www.openeurope.org.uk/media-centre/pressrelease.aspx?pressreleaseid=65>

⁵⁰ Speech, 26 February 2008

<https://pastel.diplomatie.gouv.fr/editorial/actual/ael2/bulletin.asp?liste=20080228.html#Chapitre5>

OTHER OBJECTIVES:

4. ENERGY SECURITY AND CLIMATE CHANGE; EU GREEN PROTECTIONISM?

France is likely to use the Presidency to push its idea for a 'carbon tariff' on imports coming from countries – such as China – that do not apply the same environmental legislation as in Europe. The idea is to “maintain the competitiveness of our businesses by demanding reciprocity from our partners in this area.” Jean-Pierre Jouyet has promised: “If there is inequality in efforts between Europe, the US, Russia and the big emerging countries, the ecological cost will have to be integrated into economic trade agreements with our partners. We will be extremely firm on this point during our Presidency. We have told the Commission as much.”⁵¹

France also hopes to find agreement in the EU Council on the legislative package put forward by the Commission on energy and climate change. It wants to elaborate a common position in view of the UN Conference on Climate Change in Copenhagen at the end of 2009. This means proposing concrete measures to implement the EU's commitment to reduce carbon emissions by 20% by 2020, to use 20% renewable energies, and for biofuels to make up at least 10% of transport fuel use – which are to be voted on by the end of 2008 to enter into force in 2013.⁵²

France also intends to dilute efforts towards energy liberalisation. Jean-Pierre Jouyet has said: “Europe must be competitive and open so that its market functions better, but this opening must be done in the interests of a safer and more independent Europe in terms of energy. We will not accept liberalisation solutions which lead to a weakening of European producers – in other words a weakening of Europe's independence and sovereignty on this issue. We will not accept liberalisation that leads to short-term energy price rises, whatever the advantages promised for 15 or 20 years' time.”⁵³

5. OPPOSING CAP REFORM

During the second half of its EU Presidency France is due to host a decision on the Commission's so-called 'health check' of the CAP. This is the “review” which Tony Blair accepted in return for £7 billion of Britain's rebate in the December 2005 budget negotiations .

However, despite a recent promise of “radical reform” of the CAP from Nicolas Sarkozy⁵⁴, France is determined to block any moves towards any real changes to the system, such as caps on farm payments. In particular, France has vowed to oppose moves to channel more money towards rural development, as opposed to direct aid to farmers.⁵⁵ Indeed, Sarkozy's vision of “radical reform” mainly consists of a move from protectionism through subsidies to protectionism through higher tariffs.

Agriculture Minister Michel Barnier has been busy touring 18 of the member states to shore up support for the French position, and is due to visit Britain and Ireland at the end of April. Barnier has said he is “determined to get, after a Franco-German agreement, a

⁵¹ Speech, 6 March 2008

⁵² Le Figaro, 13 March 2008

⁵³ Speech, 6 March 2008

⁵⁴ AFP, 4 March 2008

⁵⁵ AFP, 21 January 2008

qualified majority of countries in favour of this 'health check' which must be adopted during the French Presidency of the EU." He said that "around 20 countries" were already on side.⁵⁶ In January, Barnier took his entire team to Brussels for a week long visit in preparation for the Presidency.⁵⁷

This diplomatic offensive has been so successful that the Swedish Trade Minister Ewa Björling has called for pro-free trade EU member states to form a balancing bloc to combat protectionism in the EU. "We need to speak with one clear, strong voice as the protectionists have been doing", she said.⁵⁸

In the context of the World Trade Negotiations, Nicolas Sarkozy has said: "I would oppose any agreement that sacrifices the interests of French agriculture... We cannot continue to impose on our farming industry environmental dumping, social dumping, fiscal dumping, monetary dumping".⁵⁹

France recently published a document which called for a "strengthening of community preference" and recommended "tariff protection taking account of the vulnerability of certain sectors" and "sanitary and environmental rules equivalent to those imposed in Europe for imported products."⁶⁰

The European Parliament recently rejected several Commission proposals for reform, including a cap on payments to large farms and cutting down on market-distorting direct farm payments, instead directing more subsidies towards rural development. It also proposed that direct payments should carry on after 2013.

6. FLESHING OUT THE MEDITERRANEAN UNION

EU leaders have broadly agreed to Nicolas Sarkozy's idea for a Mediterranean Union, bringing together EU member states with 11 countries of the Southern Mediterranean, as well as Mauritania, and four Adriatic Balkan states, including Croatia. The plan is for a summit to take place every two years at which policy decisions will be made.

However the details – including how it will be funded – remain to be decided, and may prove divisive, as several member states, particularly Germany have been wary about the idea. During the French Presidency 8 ministerial meetings will take place to thrash this out.⁶¹

⁵⁶ AFP, 4 March 2008

⁵⁷ Coulisses de Bruxelles blog, 11 January 2008 <http://bruxelles.blogs.liberation.fr/coulisses/2008/01/michel-barnier.html>

⁵⁸ EUObserver, 8 March 2008

⁵⁹ Libération, 23 February 2008

⁶⁰ Le Figaro, 28 January 2008

⁶¹ Le Figaro, 13 March 2008

MINOR POINTS

MINIMUM EU QUOTAS FOR NATIONAL PLAYERS IN SPORTS CLUBS

Following a meeting with Michel Platini, the President of UEFA, Nicolas Sarkozy's spokesman told the press that the President intended to "take advantage of the French EU Presidency to give full meaning to the ambition of the EU in the field of sport as specified in the Lisbon Treaty."⁶² The Lisbon Treaty abolishes the veto on sport, and along with "youth" sport becomes a "supporting competency."

In an interview with Le Figaro, French Sports Minister Bernard Laporte said that during the French Presidency he wanted to introduce an EU policy to keep a minimum of players trained in France in French clubs, in order to stop talent going abroad. He said "In football, that could be six, in rugby maybe 10. There needs to be a fair balance. We will discuss this with the presidents of league clubs, as well as with other EU sports ministers."⁶³

BUILDING "A NEW FEELING OF SOLIDARITY" THROUGH CROSS-BORDER DIVORCE LAWS

In his speech about the Presidency, Jean-Pierre Jouyet said: "We will try to work together to facilitate mobility of Europeans, which means solving cross-border problems: family law, protection of individuals, their equality in the eyes of the law and their rights. We want to build together a new European generation. The steps forward in the field of family law – in particular the issues affecting divorce, the payment of living allowances, women's and children's rights – will allow us to build a new feeling of European solidarity."⁶⁴

In practice this would involve moving forward with the Commission's current proposal to simplify cross-border divorce, which France supports. The UK is likely to opt out.⁶⁵

STRATEGIC PARTNERSHIP WITH RUSSIA

Speaking during a meeting with his Russian counterpart in Paris this month, French Foreign Minister Bernard Kouchner indicated that France will use the EU Presidency to conclude a "strategic partnership" with Russia.⁶⁶

⁶² L'Equipe, 6 March 2008

⁶³ 13 March 2008

⁶⁴ Speech, 6 March 2008

⁶⁵ FT, 12 January 2008 <http://www.ft.com/cms/s/0/105de05c-c0b1-11dc-b0b7-0000779fd2ac.html>

⁶⁶ Le Monde, 13 March 2008