Parliamentary Evidence

The Future of the European Union: UK Government Policy

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Summary of evidence

The evidence submission argues that Stability and Governance Treaty (SCG) sets a precedent that could be exported to other EU policy domains. This is illustrated by reference to the EU’s foreign, security and defence policies. The evidence outlines areas where an approach drawing on the SCG might be devised by other EU member states may be seeking to develop policy beyond consensus at 27 and to the detriment of the UK.

Evidence

1. The Stability Coordination and Governance Treaty (SCG) raises important questions about the UK’s future place in the EU. This is primarily because the Treaty represents an approach towards setting near-term objectives for the European Union without any formal UK participation.

2. A key concern for the UK must be the precedent that it sets as an arrangement for future collaboration and agenda setting between Member States based on an agreement to which the United Kingdom is not a party. Of crucial significance for the UK is the principle that is established to use the EU institutions outside of the provisions of the EU Treaties. These policies could be styled ‘sub-EU 27’ policies as they do not contain the participation of all the member states but will carry the imprimatur of the EU.

3. The UK’s future European policy could be affected by the precedent that has been set to operate on this basis. Consequently a broader discussion of the possible implications of the SCG for other policy areas is important. This submission will deal principally with the potential knock-on effects of the SCG on the EU’s foreign relations and the UK’s capacity to play a lead role in collective European foreign and defence policy.

4. The Foreign Secretary (in his letter to the Committee of February 2012 final paragraph) was sanguine about the implications of the SCG for other policy domains and specifically referred to the leading role that the UK continues to play in foreign, security and defence policy. However, foreign, security and defence policies are areas in which the SCG model [of cooperation] might well be replicated.

5. A sub-27 member state arrangement already operates in the area of EU defence policy with the government of Denmark not participating. The remaining 26 member states fully utilise the EU foreign, security and defence policy institutions for defence matters.
6. In addition, the innovations introduced by the Lisbon Treaty can be viewed as facilitating an approach similar to the SCG. The Lisbon Treaty represented a departure from the EU’s previous foreign and security policy arrangements, with the intention to bring greater coherence and impact to the EU’s international relations. Implicit in the design of foreign, security and defence policy post-Lisbon is an innate capacity for the creation of ‘sub-27 EU’ policies.

7. The Lisbon Treaty has diminished the international profile of the EU’s 27 member states in its elimination of the rotating six-monthly Presidency of the Foreign Affairs Council (formerly the General Affairs and External Relations Council). This was intended to ensure a greater degree of continuity in EU policy-making and in the representation of EU foreign policy to third countries. However, the opprobrium attached to Baroness Ashton from some member states for her reluctance to proactively lead a more ambitious European foreign policy (rather than just be a servant of the EU’s Foreign Ministers) may encourage her successor to seek a more independent line on foreign policy issues. Such an approach to the role of High Representative might encourage a ‘sub-27-EU’ tendency within the foreign policy domain amongst member states that are receptive to a more developed approach [supported by the majority] which overrides the objections of some member states. Some member states may even wish to collectively grant the High Representative representation for their national foreign policy to third parties and in international fora.

8. In establishing the European External Action Service (EEAS) as an institution separate from the main institutions of the EU there has already been institutional innovation in the foreign and security policy domain. As we have noted in a recent report written for Chatham House (Chatham House, 2012) the EEAS will need to establish a reputation for independent action if it is to carve out a distinctive role for itself. In order to make the most of its role and its capabilities, the EEAS needs to cultivate the virtues of entrepreneurship: seeking to be ahead of the market by emphasizing intellectual leadership and innovative policy development; utilizing resources most effectively through a clear strategy; seeking new opportunities to advance the EU’s common agenda and be prepared to take calculated risks for that purpose; and building the confidence of its ‘shareholders’ – the EU’s 27 member governments and the EU institutions – through creative diplomacy that takes advantage of the leverage that comes with the EU’s unity while exploring the opportunities that lie in its diversity.
9. If considered as ‘shareholders’ in the EEAS it is possible to envisage a majority group of member states seeking to steer the service in directions that may not represent the unanimous view of all 27. Further, the EEAS is already actively operating on a foreign policy issue (Kosovo) where there are cleavages between the 27 on the issue of recognition and so is pursuing a policy which, in effect, represents a ‘sub-27 EU’ position. It is difficult to envisage how the UK might resist moves to further task the High Representative and the EEAS with a collective policy agreed by a ‘sub-27 EU’ group of states if this was presented as offering a boost for EU foreign policy.

10. Another area in which ‘sub-27 EU’ practices can be considered is a decision by a group of member states to ‘sub-contract’ their consular work or political representation in third countries to Union delegations. Under such an arrangement the member state(s) concerned would sign an agreement that allows for their consular activities or diplomatic representation to be conducted on their behalf by the Union delegation. This arrangement is likely to appeal to states that face resource constraints in running an extensive embassy network in third countries and/or take the view that they do not have foreign policy interests that extend beyond those already pursued collectively through Union foreign policy and which may be more effectively conveyed through collective negotiation. Agreement by a ‘sub-27 EU’ group of countries to sub-contract representation may be difficult to resist in principle by other EU member states if it is presented as a more efficient use of national foreign policy budgets.

11. The Common Security and Defence Policy (CSDP) is an area in which ‘sub-27 EU’ policies could be contemplated. This is also an area in which the UK currently finds itself in opposition to majority member state support for increasing the European Defence Agency (EDA) budget and setting up an EU operational headquarters. An SCG-type arrangement in defence may become an attractive option to other member states if the UK is considered to be the primary obstacle to greater EU defence integration.

12. The Lisbon Treaty created the Permanent Structured Cooperation arrangements of the CSDP that allow for ‘cooperation between member states whose military capabilities fulfil higher criteria and which have made more binding commitments to one another in this area’. The participating member states are expected to ‘bring their defence apparatus into line with each other as far as possible, particularly by harmonising the identification of their military needs, by pooling and, where appropriate, specialising their defence means and capabilities, and by encouraging cooperation in the fields of training and logistics’ (Art. 2(b), Protocol 10). Although it is not envisaged
as a procedure for the deployment of EU missions, this mechanism should facilitate capability development and the pooling of assets, in turn increasing CSDP operational capabilities. The Treaty defines membership as voluntary: there is no obligation for the member states to join a Permanent Structured Cooperation. Further, the decision for the establishment of a Permanent Structured Cooperation is to be adopted by the Council on the basis of qualified majority voting. The existing un-utilised voting provisions of the CFSP suggest that recourse to voting in the face of member states opposing a policy innovation in this area is unlikely and the SCG provides an alternative model to provide for such an arrangement.

13. The Treaty also foresees the possibility of entrusting CSDP operations to a group of member states ‘which are willing and have the necessary capability for such a task’. The procedure to establish a ‘coalition of the willing and able’ is much less convoluted than in the case of Permanent Structured Cooperation. The Council authorizes the decision and, thus, the mission is launched in the name of the EU, but run by the ‘coalition of the willing’. The coalition will agree on the details of the implementation of the task, in association with the High Representative. The rest of the member states have the right to be kept regularly informed of its progress. Again the SCG-type agreement provides an alternative governing arrangement for such an undertaking.

14. The precedent setting consequences of the Intergovernmental Treaty on Stability Coordination and Governance in the Economic and Monetary Union should be considered. A broader discussion of the possible implications of the SCG for other policy areas is important. As indicated, EU foreign, security and defence policies are policy domains which could see the evolution of comparative arrangements of collective action by smaller constellations of states within the 27. This could place the UK in a position of future disadvantage, reducing UK leadership in these fields and limiting HMG’s influence and capacity to set the EU’s agenda.