

Chairing the Enlarged Union:
The Netherlands' 2004 EU Council Presidency

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Foreword

This is the first issue in the Clingendael European Papers, a series of occasional papers published by the Netherlands Institute of International Relations *Clingendael*. The European Papers series intends to serve as an outlet for the English language research by the staff of the *Clingendael European Studies Programme (CESP)*.

The CESP develops, unites and disseminates topical expertise on European Union policy issues. Its research activities focus on a broad variety of topical issues concerning the European integration process, with special emphasis on the effects of developments in the integration process on the position of the Netherlands within the EU and their impact on the Dutch stance as to specific policy areas. As regards training, the CESP has a long-standing tradition of developing and running customised training programmes focusing on current European developments and its policy consequences for professionals working on European affairs. The training programmes are specifically geared to the needs of its clients, in particular government officials working on European affairs. Through its wide national and international networks both in academia and in policy-making, CESP brings together expertise to guarantee the quality of its research and training programmes. CESP also stimulates public and academic debate on European Union issues by organising conferences and seminars, as well as through its publications and contributions in the media.

This paper launching the European Papers series, ‘Chairing the Enlarged Union’, provides for a balance sheet of the Netherlands 2004 EU Council presidency. The six-month EU Council presidency is traditionally regarded as

a highlight period for national EU policy-making. Although this was the eleventh time that the Dutch held the chair, the challenges for the Dutch government were far from routine. In a wide-ranging analysis, CESP research fellows Mendeltje van Keulen and Alfred Pijpers discuss the backgrounds, agenda and principal results of the Netherlands presidency, with an emphasis on policy-making as regards to a number of specific issues covered during that period.

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Prof. Jan Rood

Director, Clingendael European Studies Programme

Introduction

This paper discusses the background, agenda and principal results of the Netherlands' 2004 EU Council presidency. The six-month presidency, during which hundreds of government representatives are responsible for preparing and chairing Council meetings at the administrative and political EU level, is generally regarded by member states as a highlight period for national EU policy-making. Although this was the eleventh time that the Dutch had held the Council's chair, the challenges faced were far from routine.

The paper has two parts. Part I explores the domestic organization and management of EU policy-making in the Netherlands, as well as the objectives and issues that were central to this particular presidency. Three Dutch concerns were paramount: the problems of managing Council business in the broad setting of the EU of 25 nations (EU-25); to provide guidance to the EU; as well as to stimulate further 'Europeanization' at the central government level in The Hague.

Part II provides a balance sheet with emphasis on the following issue areas: the 'Hague Programme' for cooperation in justice and home affairs; the political crisis surrounding nomination of the Barroso Commission; the presidency's involvement during the election turmoil in Ukraine; the Middle East Peace Process (MEPP); the European Security and Defence Policy (ESDP); and, last but not least, the run-up to the December 2004 European Council's decision on opening accession negotiations with Turkey.

Part I: Getting Set for the Presidency

Over the years the four main tasks of national EU Council presidencies have evolved to encompass the following: 1) ensuring efficient management of Council business, including administration and coordination; 2) agenda-setting and prioritizing for all levels of Council meetings; 3) performing a mediating or brokering role in seeking consensus among parties in order to 'get results'; and 4) the collective representation of the Council, both internally as well as towards the world outside the EU.¹

Each of these four tasks demanded much from the Dutch government. Whereas during the 1981 Netherlands' Council presidency 'satisfaction with existing structures and procedures made (...) that no special measures were considered (...) and the general approach was that of EC business as usual',² the current presidency workload requires much from a national administration in terms of preparations, planning and organization. As mentioned before, the 2004 presidency was the eleventh time that the Dutch had held the chair. However, in contrast with what may be expected from an experienced chair-holder, a written survey of a large group of government officials directly involved in running the presidency showed that institutional

1) For more on (the evolution of) the EU Council presidency, see Ole Elgström, *European Union Council Presidencies: A Comparative Perspective* (London: Routledge, 2003).

2) M. Jansen, 'The Presidency of the EC: The Dutch Presidency', in: C. O'Nuallain (ed.), *The Presidency of the European Council of Ministers: Impacts and Implications for National Governments* (Dover: Croom Helm, 1985), p. 218.

memory was in fact rather low: three out of four respondents indicated that the 2004 presidency was their first experience of this kind.³

Agenda-setting

Each national EU presidency is faced at an early stage with the time-consuming task of proposing a manageable agenda of issues and priorities. This endeavour was facilitated after the European Council's meeting in Seville in June 2002, where the heads of state and government agreed upon changes in the presidency's structure with the aim of ensuring cooperation among successive presidencies and consistency at the helm.⁴ One innovation has been the obligation for groups of member states to issue multi-annual presidency programmes. Agenda-setting for the Dutch was thus largely bound by the limits of the long-term programme, which was elaborated at the end of 2003 with five subsequent chairs-to-be.⁵ Sufficient room for manoeuvre, however, is left for national administrations to determine how these broader frameworks will be elaborated into a detailed overview of priorities and dossiers to be dealt with in different Council formations.

The actual selection of issues depends partially on the role that a member state chooses to play during its presidency: will it be a loyal servant to the 'rolling agenda', or does it strategically use its presidency to table national priorities? Obviously, prior experiences are to a large extent of prime importance in this respect.⁶ The defeat of the Dutch draft treaty for a European Union on 'Black Monday' 30 September 1991, reportedly because of poor coordination between negotiators in The Hague and Brussels, is still widely considered to be a traumatic experience in Dutch EU politics.⁷ This episode largely explains the rather subdued attitude during the subsequent 1997 presidency, which positioned the Netherlands as only a 'mediator' among different interests (reflected in the presidency logo of that time: a

3) A written survey of 550 government officials involved in presidency preparations was undertaken during spring 2004 by the Clingendael Institute in The Hague and the European Institute of Public Administration in Maastricht. See M. van Keulen, *Overzicht van de resultaten van het Clingendael-EIPA Opinie-onderzoek: Nederlands EU-voorzitterschap 2004* [Overview of Survey Results Dutch EU Presidency 2004] (The Hague/ Maastricht: Clingendael Institute/EIPA, 2004).

4) See *Seville European Council Conclusions*, 22 and 23 June 2002, http://ue.eu.int/ueDocs/cms_Data/docs/pressData/en/ec/72638.pdf.

5) Council of the European Union, 8 December 2003, 15896/03.

6) O. Elgström, *European Union Council Presidencies: A Comparative Perspective* (London: Routledge, 2003).

7) Michiel van Hulten, 'Zwarte maandag: kroniek van een gemiste kans' [Black Monday: A Chronicle of a Missed Chance], in: Hans Labohm (ed.), *De waterdragers van het Nederlandse Europabeleid* (The Hague: SDU Uitgevers, 1996), pp. 193-210.

bridge). Some criticized the lack of national ambitions at that time,⁸ yet it is clear that both the 1991 and 1997 experiences explain to a large extent the rather pragmatic stance of the Dutch government towards its turn at the helm in the second half of 2004.

Priorities

From the start of the domestic preparations in 2002, it was clear that the EU's 'rolling agenda' would be considered as the guiding factor. The five central themes for the Netherlands' EU presidency were thus identified as follows: 1) ensuring progress in further EU enlargement; 2) sustainable strengthening of the European economy and reducing the administrative burden; 3) further developing the area of freedom, security and justice; 4) ensuring progress with regard to the financial perspectives for the years to 2013; and 5) working on the EU's external relations with 'the rest of the world'.⁹

Added to this were preparations for the ratification of the new constitutional treaty on the EU, on which the European Council meeting reached agreement in June 2004 – much to the relief of Dutch officials. They only had to take care of the technical preparations related to the constitutional treaty: translation of the final text into all 20 official EU languages; elaboration of certain new provisions (such as those on the EU's new foreign minister); and standing on guard for the ratification debates and referenda in the member states.

It cannot escape the eye that the five central items identified above have a broad 'umbrella-like' character. Considering the decentralized nature of Dutch EU policy-making, it will thus be no surprise that government ministries have added multiple lists of more concrete policy issues. This was largely organized 'bottom-up' – that is, from the policy units to ministerial coordination groups up to the inter-ministerial and political level. In the final presidency programme, sent to the Dutch Parliament in June 2004, national features are easily identified, including issues such as a high-water and flooding initiative; maritime transport and short sea shipping.¹⁰ Probably the most prominent one concerned launching a debate on the 'norms and values' underlying European integration, a theme that is widely considered to be a

8) M. van Keulen and J.Q.T. Rood, 'Between Ambition and Modesty: The Netherlands' 1997 Presidency of the European Union', in: O. Elgström, *European Union Council Presidencies* (London: Routledge, 2003).

9) See *Het Nederlands voorzitterschap van de Raad voor de Europese Unie in 2004: accenten*, [The Netherlands' Presidency of the Council of the EU in 2004: Priorities], Second Chamber of the Dutch Parliament, 29361, No. 5, 8 June 2004.

10) *Ibid.*

personal hobbyhorse of the Dutch prime minister Jan Peter Balkenende (a Christian Democrat).

Inter-ministerial Coordination

The rather fragmented presidency agenda carried a strong risk of turf battles between government departments over priorities, negotiating tactics and strategy. Key players, such as the finance or justice and home affairs ministries, were known to hold conflicting views regarding dossiers at stake. In an effort to manage this risk, the foreign affairs ministry had launched a more centrally coordinated process of EU policy preparations. Important innovations included, first, the institution of an interdepartmental working group of senior officials in charge of coordinating the presidency at home. This group had to face the difficult task of scaling down the initial agenda as soon as progress by the preceding Irish presidency had become clear. A similar group proved its worth during preparations for the 1997 EU presidency in terms of providing a forum for regular coordination and information exchange. Second, a ministerial steering group, chaired by the Dutch prime minister and composed of a selected group of government ministers of the departments most involved, met weekly in the period before and during the presidency with the aim of discussing horizontal overview of progress in the different Council formations and of avoiding inconsistencies.

It is interesting to examine how the government officials directly involved in presidency preparations perceived these procedural changes in the management of EU affairs. Questioned in the aforementioned written survey of government officials directly involved, 44 per cent of the respondents indicated that the (then upcoming) presidency improved the way in which EU policy is dealt in The Hague.¹¹ There is apparently room for change. Others indicate that the effectiveness of EU-related work has not markedly improved because of presidency preparations. However, predominantly 'negative' explanations are being given for this, for example that there is still too little structural attention for the EU within the central government administration. On the other hand, most respondents readily acknowledged that more human and financial capacity was made available for the presidency, and that the departmental management, politicians and those policy units normally dealing with domestic policy seem more involved in what happens in the EU. In particular regarding the commitment of senior officials and management, a large majority of respondents was very positive (71 per cent). Moreover, regular contacts with EU institutions and counterparts were considered more common than in 'normal' times.

11) See footnote 3.

The majority of the measures aimed at improving inter-ministerial dealing with EU affairs during a highly intensive presidency period were explicitly intended to be temporary. However, it can be argued that they may be worth continuing afterwards. Experience has shown that organizational innovations made in the context of the presidency often prove valuable in the longer term.¹² To give an example, for the 1997 Dutch presidency the agricultural ministry introduced special inter-ministerial ‘dossier teams’, which were charged with monitoring one particular file during the presidency. Working with these teams enabled a focused and coordinated approach to negotiations in Brussels, and their mere introduction implied a strategic prioritizing among files. This innovation has been copied by several government departments during the past few years.

Other preparatory measures included a massive presidency training course for some 550 national officials, which was aimed at updating knowledge of EU procedures and working practices in an EU-25.¹³ In this training course, the Council Secretariat briefed government officials as to the assistance that the Secretariat might bring to the chair. The Council Secretariat may offer advice on member states’ positions, procedures and legal issues, assist in planning, briefing and reporting from meetings, and it thus serves as the presidency’s ‘eyes and ears’ in Brussels. It has been argued that ‘one of the keys to the success of a presidency is its ability to capitalize on the [Secretary-General’s] support and advice’¹⁴ – valuable assistance that is often badly missed by member states once their presidency has come to an end. Council Secretariat assistance has been all the more important because of implementation of the new Council Rules of Procedure in 2004.

Finally, preparations included numerous working visits to the EU’s capital cities – to the extent that complaints arose with the then-Irish presidency about the frequent travelling of the incoming chair.

Three Dutch Ambitions

Although every member state generally regards its term at the helm as extraordinary, it was clear from the start to insiders and observers alike that the Dutch faced a challenging period, if only because they had to deal with an institutional *terra nova*. In line with what may be expected from a small

12) M. van Keulen, and J.Q.T. Rood, ‘Nederland aan het stuur van de Europese Unie’ [The Netherlands at the Helm of the European Union], in: *Internationale Spectator*, Vol. 58, No. 6, 2004.

13) This preparatory course was organized in April-May 2004 by the Netherlands Institute of International Relations ‘Clingendael’ and the European Institute for Public Administration (EIPA).

14) M. Westlake, *The Council of the European Union* (London: John Harper, 1999), p. 50.

member state, Dutch government officials indicated in our survey that they conceived the Council presidency in terms of efficient 'process management' rather than as an opportunity for effective representation of national interests. When asked to rank the main presidency tasks, a majority stressed the administrative burdens upon the chair: mediation and seeking compromise between delegations (51 per cent); agenda-setting (49 per cent); as well as coordination and planning of Council business (47 per cent). Far less mentioned were the tabling of national initiatives (28 per cent) or actively drafting presidency papers (22 per cent).¹⁵

By and large, the Dutch government had set itself three major tasks: (1) making Council business work with 25 members around the table; (2) providing guidance for the Union; and (3) feeding 'Europeanization' at home.

1. Making the EU-25 Work

In summer 2004, news about the EU institutions was dominated by the coming-into-office of the Barroso Commission, and also by concerns over the re-elected European Parliament, which was composed of many relatively less experienced new members. Because the legislative machinery was de facto limited to six weeks (from the new Commission taking office on 1 November (2004) until the 16-17 December (2004) European Council meeting), many informal political and high-level meetings were convened. This posed an enormous (albeit partly self-inflicted) burden onto the presidency's organization. Moreover, the Netherlands was the first member state to be responsible for running the Council's day-to-day work with 25 member states for a full six-month period.

The most obvious consequence of enlargement is the increased complexity of coalition formation and the change in the Council's working procedures.¹⁶ Not only is the building of winning coalitions considerably complicated by the increased number of member states and the parallel changes in voting procedures, but the negotiations have also become less predictable because of the active presence of ten newcomers. These countries differ in many ways from the 'old' members, in terms of administrative histories, cultural background and political culture and the number of cross-cutting cleavages among the EU-25 will increase considerably. Many new combinations and alliances are feasible and it has become much more difficult to anticipate negotiation results.

15) See footnote 3.

16) Secretary-General of the Council of the European Union, *Operation of the Council with an Enlarged Union*, SN 2139/99, 10 March 1999 (the Trumpf-Piris Report).

Getting to know the new actors has therefore been one of the key issues of Dutch preparations for the presidency.¹⁷ Although dealing with the new members was one of the key challenges in the latter half of 2004, a majority (55 per cent) of respondents questioned in the aforementioned survey estimate that their personal knowledge of the policy styles of these countries still leaves a lot to be desired. This is obviously for the most part because of lack of working experience with the new member states. Whereas respondents of the aforementioned survey rank Poland (just after France) as the second member state deemed influential when it comes to negotiations (and thus as most important for the chair),¹⁸ at the same time Polish negotiating behaviour was considered largely unfamiliar at the start of the presidency. Gaining more insight into the cultural characteristics of the new member states has been one key objective of the presidency training course. Government departments have also devoted much time and energy in establishing good working contacts with the new member states, sharing experiences and working practices and exploring national positions on issues that are relevant for various EU policy domains. Multiple working visits aimed at establishing regular contacts with the new members and repairing the damage done by domestic debates on enlargement, in which financial worries dominated and which reputedly caused much annoyance in the accession states. Instead, the Dutch presidency aimed at building an image of the Netherlands as an ally that is less threatening than the larger member states, and yet sufficiently experienced to act as an opinion leader and coalition partner – for instance regarding the free-trade-oriented economic agenda, which many new member states share.

A second consequence of enlargement was the change of working procedures in Council settings. Because a mere extrapolation of working practices for the EU-15 would have led to administrative overload and deadlock, the Council's General Secretariat had produced new Rules of Procedure.¹⁹ Important changes include the substitution of *tour de tables* by targeted discussions and a two-minute speaking-time limit, while delegations are prevented from repeating points already made. In addition, files may only be sent 'upwards' to COREPER (the committee of permanent

17) Suzanne Nollen and Adriaan Schout, 'Nederland ongewenst gidsland als EU-voorzitter', [Netherlands unwillingly Guiding in its Role as EU Council Presidency], in: *Openbaar Bestuur*, No. 10, October 2004.

18) The question to the respondents was formulated as follows: 'which member state would you indicate as most influential on the results of the Dutch EU presidency as regards its negotiation and political culture?'. The exact ranking was France (83 per cent); Poland (56 per cent); Germany (53 per cent); and the UK (39 per cent).

19) See *Council's Rules of Procedures: Legislative Acts and Other Instruments*, Brussels, 22 March 2004, 5163/04, JUR 12, CAB 3.

representatives) when working group discussions have isolated a small number of sensitive political issues.

These developments obviously change the way in which meetings are prepared, but also the role of the chair. It has become more urgent than ever to produce and maintain a strict plan for files and meetings, the so-called 'battle plans'.²⁰ At the very least, it is important that the chair raises sufficient patience and empathy to accommodate all of the delegations, including those that are less experienced in Council practices. But the long-standing members also need to adapt to the new language regime (for example: a translation of mere ten pages into twenty official languages may take up to eight working days, while limits have been set for translation costs of meetings and documents that are requested by each member state), which places severe burdens on the capacity of all players involved to organize work proactively. Initial experiences under the Irish and Dutch presidencies seem to indicate that some chairmen tend to stick to *tour de tables*, allowing lengthy interruptions. Successful implementation of the reforms will ultimately depend on the extent to which the new chairs cooperate with the Council Secretariat.

2. Providing Guidance for the EU

It is obvious that Council presidencies create plenty of opportunity for the member states to show political and administrative leadership.²¹ The Dutch experience in 2004 perhaps offered even more chances in this regard. With the European Commission and Parliament largely absent, the Council chair was looked upon primarily for steering the Union. First and foremost, this steering function implies simply delivering results. Urging the Council towards conclusions has been called the 'basic duty' of any national presidency.²² A smoothly running tandem of prime minister and foreign minister is vital. Hoetjes has argued that 'only a strong minister of foreign affairs or – even better – a coalition between a strong foreign affairs minister and the prime minister can reduce the Dutch problems of coordination and control in EU policy-making'.²³

20) See Alain Guggenbühl, 'Cookbook of the Presidency of the European Union', in: Paul Meerts (ed.), *Negotiating European Union* (Basingstoke: Palgrave Macmillan, 2004).

21) A.-C. Svensson, *In the Service of the Union: The Role of the Presidency in Negotiating the Amsterdam Treaty, 1995-1997* (Stockholm: Elanders Gotab, 2000).

22) Quote from the 'Three Wise Men Report', *Report on the European Institutions by the Committee of the Three to the European Council* (Luxembourg: Office for Official Publications of the European Communities, 1979).

23) Ben Hoetjes, 'The Netherlands: A Former Founding Father, in Search of Control', in: Wolfgang Wessels *et al.*, *Fifteen Into One: The EU and its Member States* (Manchester: MUP, 2003), p. 323. It should be noted that lack of coordination capacity is an endemic weakness in the Dutch politico-administrative system, where none of the government offices, not even

The Dutch team had in this respect a number of advantages. Prime minister Balkenende was halfway through his second term in office and still relatively inexperienced on the international stage, and he suffered from a weak image at home, but his second was a true veteran of the foreign ministry, Bernard Bot.²⁴ As a retired member of the Dutch foreign service, Bot had never held any ambition to become a political rival to the prime minister (both are from the CDA, the Christian-democratic party), while his longstanding experience in Brussels (he was the Dutch permanent representative to the EU from 1993 to 2002) and his extended European networks could be brought to good service throughout the presidency period. He left the state secretary for European affairs, Atzo Nicolai (of the conservative-liberal VVD party), in the shadows. Such senior cabinet ministers as the minister of finance and deputy prime minister Gerrit Zalm (VVD) or the minister of economic affairs Laurens-Jan Brinkhorst (of the social-liberal party D66) could also feed the presidency with a good deal of their European experience. EU leadership is a big term for a small country, but the solid preparations, much expertise, optimistic mood and the willingness to deliver provided essential elements for a guiding role.

3. Feeding Europeanization at Home

A third ambition for the Dutch 2004 residency team was to turn the increased European 'awareness' relating to the rotating EU presidency into a sustainable domestic strategy towards the Union. The 2004 presidency came at a time of domestic controversy for the Netherlands over European issue areas such as justice and home affairs, the EU's budget and the structural funds, and the common agricultural policy. The Dutch government hoped that the temporal reforms in policy coordination that were required during the presidency could be turned into structural reform of the way in which the EU is handled at home.²⁵

The 2004 presidency may thus have come at precisely the right time to provide the necessary momentum for a new strategy on the role and position of the Netherlands within the new European Union. Indeed, the annual State of the Union 2005 policy brief, in which the Dutch foreign ministry reviews the key EU policy areas for the year to come, explicitly calls for the necessity

that of the prime minister, possesses the competencies to temper or to overrule individual ambitions.

24) The Christian Democratic Party (CDA) of prime minister Balkenende hoped very much that he would improve his international reputation through a successful EU presidency, and hence also enhance his domestic profile.

25) Mendeltje van Keulen and Jan Q.T. Rood, 'Nederland op de voorzittersstoel van de Europese Unie' [The Netherlands on the Chairman's Chair of the European Union], in: *Internationale Spectator*, 58(6), June 2004, pp. 287-292.

to review current Dutch EU policy-making mechanisms in the wake of EU enlargement.²⁶ The document stresses the increasing importance of bilateral relations and explicitly mentions the relevance of information exchange and cooperation within Benelux. Moreover, it announces a critical review of coordination procedures in the months after the presidency.

What then were the results of all these preparations?

26) Ministry of Foreign Affairs, *Staat van de Unie 2004-5* [State of the Union 2004-5] (The Hague: SDU, September 2004).

Part II: Implementation and Results

The Dutch EU presidency started in July 2004 with some encouraging signs. The Dutch voting turn-out at the European elections of 10 June 2004, for instance, was at 39 per cent – 10 percentage points higher than during the previous round in 1999. Although this result still fell below the EU average of 45 per cent,²⁷ the impression that on the eve of an important European assignment the Netherlands was trapped in a downward spiral of increasing Euro-scepticism could be repudiated. Moreover, the Irish presidency had been successful in bringing the intergovernmental conference (IGC) on the treaty establishing a constitution for Europe to a good end on 18 June 2004, just a few weeks after the ‘big bang’ of enlargement. This was not only a boost for European morale after more than two years of haggling over constitutional details, but also freed the Dutch presidency for other tasks.

In August 2004 the Dutch captured, on top of this, a key position in the new European Commission, thanks to the close personal contacts that Dutch prime minister Balkenende had built with the president-elect of the Commission, José Manuel Barroso, partly during the European soccer championship of June 2004 in Portugal. Barroso badly needed another female candidate to complete his new team, a request that Balkenende was all too willing to meet, in return for a solid portfolio. The Dutch candidate, Neelie Kroes, was not everybody’s favourite choice (as later events showed), but the

27) See http://www.elections2004.eu.int/ep-election/sites/nl/results1306/turnout_ep/index.html.

prestigious portfolio of competition was better than anything that Balkenende could have hoped for in his still infant European career.

But Balkenende's honeymoon did not last very long. In September 2004 he fell seriously ill with a complicated foot disease, and was out-of-office until the signing of the European constitutional treaty on 29 October 2004 in Rome. In the meantime, deputy prime minister and minister of finance Gerrit Zalm had to replace him for the external contacts and the internal coordination of various important presidency dossiers, of which Turkey was one. A daily video meeting between politicians and officials in The Hague and their colleagues in Brussels proved very helpful.

Among the pluses and minuses on the balance sheet of the Dutch presidency, we have singled out a few cases which represent both the principal results as well as the principal problems the Dutch encountered during the second half of 2004: the 'Hague Programme'; the Buttiglione crisis; the (near) crisis in Ukraine; the Middle East Peace Process (MEPP); the European Defence and Security Policy (ESDP); and, last but not least, the Turkish question.

The Hague Programme²⁸

Realizing a new multi-annual programme for closer cooperation in the fields of freedom, security and justice was one of the key purposes of the Dutch presidency. The EU had to develop a follow-up for the five-year agenda that had been agreed at the 1999 European Council summit in Tampere. This objective became even more politically salient in view of the terrorist attacks in New York of 11 September 2001 and Madrid of 11 March 2004, pressing domestic problems in several member states concerning asylum policy and integration of minorities, and, finally, the widespread ramifications of international crime. Moreover, Commissioner António Vitorino, who was responsible for the European Commission's directorate general (DG) of justice and home affairs, had expressed his personal interest in successfully finalizing his term in the Prodi Commission by setting out the lines for a future policy agenda.

In June 2004, the European Commission presented a communication that took stock of the implementation and set future guidelines for a new justice and home affairs' (JHA) agenda for the years to come.²⁹ Based upon these texts and intensive bi- and multilateral consultation rounds, Dutch officials of the ministry of justice and home affairs drafted a satisfactory

28) The authors wish to express their thanks to Roos Toxopeus (Clingendael Security and Conflict Programme) and Hans van der Meulen (Clingendael European Studies Programme) for their input and comments on this section.

29) COM (2004), 410 def.

package, which was sealed by the November 2004 European Council as the 'Hague Programme'.

The formal request to work on a new text, addressed by both the Commission and the presidency, was only issued during the European Council meeting in June 2004. However, the new policy programme had already inspired experts and officials to draft preliminary text proposals since mid-2003. The Dutch Council presidency had taken up this challenge by designing a rather proactive strategy, which aimed at reaching agreement on the guiding lines before summer 2004.³⁰ In The Hague, a task force located at the ministry of justice (including representatives of the ministry of internal affairs and the foreign affairs department as the authority for coordinating national EU policy-making) was charged with preparing and coordinating all of the activities related to drafting the new action plan. With the help of a matrix table, taking stock of all of the topics and related member state positions, the process included many bilateral consultations and discussions over (re)drafted texts proposals. The European Commission (DG JHA) was continuously involved, although the presidency explicitly took the lead. This strategy facilitated the inclusion of particular Dutch national interests into the text – in particular regarding asylum and integration policy, drugs³¹ and vehicle criminality. Essentially, however, national interests were explicitly regarded as secondary to the necessity of finding a common line among all 25 member states.

To reflect progress, presidency papers were presented at a number of successive formal and informal JHA Council meetings in June, September, October and November 2004. In November 2004, no less than eleven key issues were discussed on the basis of short policy documents (*fiches*). With hindsight, this 'cut-and-paste' strategy can be regarded as a successful step in the direction of reaching general agreement at the European Council meeting in The Hague on 5 November 2004.

In the limited space of this paper it is virtually impossible to cover the extensive scope of issues that the new policy programme covers. If only two topics are to be highlighted, mention should first be made of the measures proposed in the EU's fight against international terrorism. In the framework of the EU's action plan against terrorism, former Dutch state secretary Gijs de Vries was nominated as the EU's anti-terrorism coordinator. De Vries was charged with the cumbersome task of setting out the headlines for an EU policy in the field. Because of political sensitivities, the topic soon became the subject of conflicts of competence between the member states, united in the Council, and the European Commission's DG JHA. The most important innovation that the new programme has to offer in this respect is without

30) Because of the integral nature, this approach was referred to as the 'umbrella concept'.

31) The EU's drug strategy for the period 2005-2012 was agreed in December 2004 and will be attached to the Hague programme.

doubt the provision stating that a threat to the public order of one member state is to be regarded as a threat to all of the member states. This potentially far-reaching provision, mirroring NATO's solidarity clause (art. 5), implies that national competencies may be used for protecting other member states and provide the basis for a clause that enables mechanisms for 'immediate' information exchange in the event of an unforeseen crisis.

Second, with regard to asylum and migration policy, the discussion focused at an early stage on the issue of burden-sharing among the member states. The so-called 'Plan-Schily', which proposed regional assistance to (groups of) refugees, was quickly adopted by the UK and Italy. However, other member states, most notably Spain, France and Ireland, were considerably more critical and the plan was effectively torpedoed in October 2004. During the subsequent November JHA Council meeting, however, agreement was reached upon an ambitious plan to introduce a common EU asylum procedure by 2010.³² Similarly, but only at the European Council level, agreement was reached on the introduction of majority voting provisions and co-decision by the European Parliament with regard to asylum policy (effectively introduced by 1 January 2005).³³ However, the heads of state and government failed to reach agreement on plans to introduce the office of a new European public prosecutor – a particularly controversial item, especially in the UK.

Opinions differ on the merits of the Hague Programme.³⁴ According to experts in the field, the policy programme is neither revolutionary in its scope, nor ambitious with regard to its objectives. Indeed, compared to the European Commission's document of June 2004 – proposing far-reaching progress concerning *inter alia* strengthening the common cooperation agencies EUROPOL and EUROJUST and introducing an integrated external border management system – the final programme is considerably less ambitious. Rather than introducing new measures, it focuses on implementation and elaboration of the Tampere programme and related legislation. Moreover, in contrast to the clear preferences expressed in the Commission's text for the Community method on the full range of justice and home affairs' matters, the Hague Programme mainly provides *intergovernmental* cooperation procedures, such as bench-marking, information exchange and the approximation of

32) Note that the draft constitutional treaty calls for a general 'communitarization' of decision-making procedures in the field of justice and home affairs. Because of uncertainties relating to the ratification process of this treaty in all of the member states, however, these provisions could not be relied upon during negotiations on the Hague Programme.

33) Not surprisingly, introduction of the co-decision procedure was the main recommendation of the European Parliament's proposal issued in October 2004 (see doc. P6 TA-PROV (2004) 0022 A6-0010/2004).

34) Official Journal C 53/1, *The Hague Programme: Strengthening Freedom, Security and Justice in the EU*.

national rules. This modest approach would also partly be due to inter-ministerial differences of opinion among the stakeholders at the domestic level, which necessitated finding compromise texts for particular controversial issues.

In contrast, other observers point at the remarkable progress made since the introduction of JHA into the treaty in 1992. With reference to the politically sensitive nature of the topics dealt with in the Hague Programme and the institutional void in which the presidency was forced to operate during its term, it is argued that the Hague Programme's progress may indeed be regarded as a key achievement of the Dutch presidency.

The Buttiglione Crisis³⁵

A second case that came to mark the Dutch term originated not from the regular presidency agenda, but was related to the rather unexpected inter-institutional battle over nominations to the Barroso Commission. In the course of August 2004, the media had raised doubts about several members of Barroso's team. The newly elected European Parliament was keen to show its teeth during the hearings preceding the new Commission's formal appointment. The Italian candidate, Rocco Buttiglione, in particular created outrage with his statements on homosexuality ('a sin'), women and refugees, triggered through questioning by the Dutch Green MEP Kathalijne Buitenweg. In the face of a parliamentary vote of no confidence, Barroso decided to withdraw his line-up at the 27 October 2004 plenary session. Besides László Kovács, Ingrida Udre and Marianne Fischer Boel, Dutch candidate Neelie Kroes was mentioned as the most likely victim to fall with Buttiglione.³⁶ Soon after publication of her candidature, the Dutch press had already questioned Neelie Kroes's impartiality because of her strong links with private transport and building sectors. This issue became central to the hearings before the European Parliament's committee, where the Dutch candidate failed to make a strong impression upon those present.³⁷

The public threats to Neelie Kroes's candidature caused a serious dilemma for the Dutch presidency. With her downfall, the Dutch government would risk losing the top post of competition, the granting of which had come

35) This section is based upon the reconstruction by Mendeltje van Keulen, 'Kroes at All Costs', in a special issue of *European Constitutional Law Review*, edited by Tom Eijsbouts, No. 2, forthcoming 2005.

36) 'Commentary', *El País*, 28 October 2004.

37) 'Those who attended the hearing were (...) depressed by her faulty grasp of seemingly important questions and her dogmatism' (p. 10), making 'her parliamentary critics (...) the loudest and most obvious' (p. 18); in Peter Ludlow, *The Barroso Commission: A Tale of Lost Innocence* (Brussels: Eurocomment, 2004).

as a pleasant surprise to many.³⁸ Moreover, as we will show, prime minister Jan Peter Balkenende was strongly pressed by its the liberal coalition partner to retain Neelie Kroes's candidature.

Although the Dutch presidency itself was not directly responsible for what happened in the days of what became known as the 'Buttiglione crisis', critical remarks have been made over its role during the unfolding crisis. These focused, first, on the presidency's physical absence, both at the start of the plenary debates and in the corridors.³⁹ Only at the end of the debates, ending in Barroso withdrawing his team on 27 October 2004, did the Dutch state secretary for EU affairs Atzo Nicolai declare from the Council seating box that the presidency 'understood the situation' and 'hoped that the unfortunate situation could be solved as soon as possible within the current team',⁴⁰ a remark that the plenary responded to with hilarity.

Second, it was argued that the presidency could have done more behind the scenes to mediate between critical parliamentarians and Barroso's Commission team. European liberal-democrats' (ELDR) leader Graham Watson remarked how the Council had been 'remarkably absent'.⁴¹ Not surprisingly, The Hague was keen to explain its low profile as a deliberate move of the supposedly 'neutral' Council presidency, which was unwilling to intervene in what were described as 'intra-institutional matters'. Whatever the justification of this view, it was certainly not consistently followed. Roughly at the same time as deputy prime minister Gerrit Zalm (acting for hospitalized prime minister Jan Peter Balkenende) was declaring that the Dutch Council presidency would not express a view on the crisis, Dutch foreign minister Bot, on a state visit to Indonesia, announced that he saw Buttiglione as a 'good candidate'.⁴²

After Barroso's decision to withdraw his nominations, the presidency first proposed an emergency European Council in Rome and, when this failed, announced that it was organizing informal talks with the EU's heads of state and government, who were gathering in Rome on 29 October 2004 to sign the constitutional treaty. In view of the fact that Silvio Berlusconi had

38) 'In a Series of Surprising Moves, Barroso gave the Powerful Job of Competition and Antitrust to Kroes', *International Herald Tribune*, 13 August 2004.

39) 'De Puinhopen van Balkenende' [The Ruins of Balkenende], in: *HP De Tijd*, 4 November 2004. Queen Beatrix of the Netherlands seemed the only representative of the Dutch presidency, when on 28 October 2004 she gave a speech for the European Parliament's plenary session. This speech was completely overshadowed by the turmoil around Barroso's candidates.

40) Youri Albrecht and Pieter Vermaas, 'Falend Voorzitterschap' [Failed Chairmanship], in: *Vrij Nederland*, 4 November 2004.

41) Albrecht and Vermaas, 'Falend Voorzitterschap'.

42) Foreign minister Ben Bot argued that sufficient measures were taken to prevent Buttiglione's personal opinions from affecting EU policies; interview with *De Volkskrant*, 27 October 2004.

indicated that he would sacrifice his candidate if others would repeat that gesture, Barroso applied full pressure on the weakest spot in the proposed line-up: Neelie Kroes and her protectors in The Hague. He came close to success, but during an acrimonious dinner at the Dutch ambassador's residence in Rome, the Council President refused to give in, leaving Barroso empty-handed. Barroso later publicly expressed frustration over governments' insistence on retaining their national candidates, explicitly referring to the Netherlands.⁴³

Balkenende, however, was stuck between a rock and a hard place. Neelie Kroes's candidature was strongly supported by the liberal-democratic group in the European Parliament and also 'at home'; the VVD remained adamant about retaining her candidature. The cumbersome process of proposing a candidate for the Commission's Dutch representative had been no exception to the traditional, backstage division of top posts among the Dutch government's coalition parties. Deputy prime minister Gerrit Zalm had warned in the Dutch Cabinet that pushing for another Christian-democratic candidate (after Ruud Lubbers' appointment as UN High Commissioner and Jaap de Hoop Scheffer's as NATO Secretary-General) risked feeding an already considerable degree of Euro-scepticism within his liberal party. Although Peter Ludlow suggests that Barroso refrained from pressing The Hague because of threats from the liberal party to leave the Dutch government's coalition if the Dutch prime minister countenanced Kroes's dismissal,⁴⁴ it seems more plausible that Balkenende himself gave in to his coalition partners. *Le Monde* quoted a French MEP who stated that by refusing each change, the Dutch presidency, which was always eager to accuse France and Germany, had now disqualified itself.⁴⁵

When the media announced on 5 November 2004 that Barroso had his team cleared, Balkenende spoke of 'a fine day for the Netherlands'. But although domestic media credited the strong position of the Dutch government,⁴⁶ it is highly questionable whether there has indeed been any active mediation by the Dutch government throughout the crisis. The picture that emerges from a reconstruction of what happened during these hectic days in and among The Hague, Brussels and Strasbourg is one of stubborn reluctance by The Hague, because of domestic political considerations, to assist Barroso in finding a way out of the crisis. Balkenende thereby

43) With hindsight, the fact that Barroso publicly distanced himself from Neelie Kroes, with whom he will have to work in his Commission team, seems to have been rather unwise.

44) Ludlow, *The Barroso Commission*.

45) French MEP Bourlanges, as quoted in *Le Monde*, 6 November 2005. Martin Schulz was quoted as commenting: 'By keeping Mrs Kroes in office, Barroso will walk with a stone in his shoe during the term of his mandate'.

46) *Financieele Dagblad*, 5 November 2004.

deliberately chose to risk damaging his relations with his European counterparts.

With hindsight, Balkenende's illness came at the right time for him to keep a low profile in the events, in order to keep Neelie Kroes, the candidate who had been forced on him by his liberal coalition partners, out of the turmoil. By not giving in to Barroso and his fellow European Council members' pleas, Balkenende chose short-term domestic political concerns over long-term relations with his EU counterparts.

Interference in Ukraine

Ukraine's presidential elections provided a good case for testing the Dutch presidency's crisis management capacity. Since the accession of Poland, Slovakia and Hungary to the EU, this former Soviet republic borders directly on the EU and is one of the focal points of the European neighbourhood policy. Increasing stability and democratization of this buffer between the EU and Russia is considered a priority in Brussels and the EU member states. In the run-up to the elections of autumn 2004, the EU had made it very clear that it would not accept any tampering with election procedures or results. It was also an open secret that most EU members favoured the reform-minded opposition candidate Viktor Yushchenko over the incumbent prime minister Viktor Yanukovich, who was considered corrupt and too much in the pocket of oligarchic clans and Moscow. This hardly concealed European preference was perhaps understandable from the perspective of the EU's neighbourhood programmes, but it was risky in terms of Europe's relationship with Moscow, which considers Ukraine to be an integral part of its traditional sphere of influence.

The second and decisive election round took place on 21 November 2004 in the spotlight of the global press and monitored by an impressive army of OSCE observers, among whom there were many Europeans. The outcome seemed a victory for Yanukovich and was loudly applauded by Vladimir Putin. But the opposition and international observers signalled so many irregularities that the outcome could not be confirmed. The OSCE's report was devastating. Yushchenko's supporters refused to accept the official count, and organized massive demonstrations for many days around the government buildings in Kiev. Prime minister Yanukovich, however, refused to submit, and threatened violence to suppress the demonstrations. Disaster was in the air.

The EU, which had openly endorsed the OSCE's report, could not remain aloof. Polish president Kwasniewsky, in particular, had pressed for active EU interference and for concrete steps to be taken by the presidency. He decided to go to Kiev himself, and forced the presidency to take action. But Dutch foreign minister Bot was careful not to raise the stakes too high *vis-à-vis* Moscow. Bot's relationship with Moscow was not very good after his

critical remarks on Russia's 'liberation' of the school in Beslan in September 2004 and Putin was scheduled to attend a (postponed) EU-Russia meeting in The Hague on 24 November 2004. Bot therefore decided to send a special EU envoy to Kiev, in the person of retired Dutch diplomat Niek Biegan, who was joined one day later by the Common Foreign and Security Policy (CFSP) chief Solana. Biegan carried letters with him for the various Ukrainian political leaders, but their contents were not disclosed.

Both of the EU's representatives could obviously remain for a longer period in the Ukrainian capital than the president-in-office himself – Biegan even more than Solana, who had to interrupt his mission several times for other pressing business.⁴⁷ The two immediately put themselves to work, and helped to organize three round tables with the Ukrainian president and the opposition candidate. These resulted in a compromise on 8 December 2004, whereby a new election date (26 December 2004) and a package of constitutional reforms were agreed upon. It can be argued that this active European intervention was one of the factors that averted a massive clash between police/army and demonstrators. In the meantime, US and NATO diplomats had softened up Putin's backing of Yanukovich, but the US left the diplomatic initiative to the EU.⁴⁸ The positive outcome for Yushchenko on 26 December 2004 was respected in Moscow, and Dutch prime minister Balkenende, representing the Luxembourg EU presidency this time, was among the happy spectators of the new Ukrainian president's oath-taking on 23 January 2005 in the Ukrainian Parliament.

The Ever-Present Middle East Peace Process (MEPP)

The Palestinian-Israeli conflict is a more or less permanent item on the EU presidency's foreign policy agenda. The conflict not only seriously affects the security of a broad area near Europe, and the transatlantic relationship, but also has serious domestic consequences inside the EU itself. Many people in the Netherlands, for instance, still foster special ties with Israel, while its sizeable Muslim population strongly favours the Palestinian cause. The Dutch government was keen to use its EU presidency for whatever good services it could offer, and foreign minister Bot had already made trips to Jerusalem, Damascus, Cairo (March/April 2004) and Ramallah (May 2004), well before

47) In itself ironic, since the very reason for the appointment of a High Representative for the CFSP was to provide more continuity in the conduct of European foreign policy. This continuity was provided in Kiev by the Dutch presidency's representative.

48) John Löwenhardt, 'De Oranjerevolutie en de Europese Unie' [The Orange Revolution and the European Union], *Atlantisch Perspectief*, No. 1, March 2005, p. 13.

the official start of his EU stint.⁴⁹ A range of questions required a European response: the construction of the Israeli security fence (the 'Wall') on the West Bank; the Gaza withdrawal plans; Yasser Arafat's death; and relations with Syria and Hezbollah.⁵⁰

The question of the 'Wall' became the first MEPP test case for the Dutch EU presidency. The 'Wall' represents an entirely new obstacle in the Middle East, and with the exception of the United States the international community, including the European Union, does not have a good word to say about it. In October 2003, the EU had tabled a resolution at the United Nations General Assembly, which stated that 'the construction of the Wall on occupied Palestinian territory, including East Jerusalem, should be terminated and undone'. This resolution was adopted by a large majority. The General Assembly thereupon decided to ask the advisory opinion of the International Court of Justice (ICJ) in The Hague, but the EU-15 abstained from voting in this case since it did not want to give a legal twist to a basically political matter.⁵¹ Nevertheless, the ICJ did deliver a scathing verdict on Israel. The General Assembly thereupon adopted a further resolution on 20 July 2004, in which Israel was summoned (with 150 votes in favour, six against and ten abstentions) to dismantle the 'Wall'.⁵² Despite their legal reservations, the EU – now with 25 members for the first time – nevertheless decided to vote in favour of the resolution, this to the great indignation of Israel. In Jerusalem, the Dutch ambassador was called to account for the European Union's voting behaviour.

The Dutch EU presidency was exposed to various French, American and Arab influences. On the final count, the ambition to keep all 25 member

49) The presidency is formally the external representative of the EU Council in foreign policy, but this does not mean that the other member states keep silent. Particularly in the MEPP, larger states take their own initiatives alongside the presidency's moves. During the Dutch term, French foreign minister Michel Barnier made several trips to the Middle East, while British prime minister Tony Blair even launched in December 2004 a proposal for an international conference in London to address the Palestinian question. At that time the Dutch still held the chair. The conference took place in March 2005. Another example was the November 2004 agreement between the EU's 'big three' (France, Germany and the United Kingdom) and Iran, which was almost entirely negotiated outside the purview of the Dutch EU presidency (Italy had the same experience in October 2003). The Dutch were also quite happy to leave crisis management in Ivory Coast (November 2004) to France.

50) This paragraph is based upon Alfred Pijpers, 'Palestijns-Israëlische realiteit en goede Europese bedoelingen' [Palestinian-Israeli Reality and Europe's Good Intentions], *Internationale Spectator*, Vol. 58, No. 12, December 2004, pp. 611-16.

51) Several European states, including the Netherlands, had even expressed this in their national statements, as filed at the Court, in the hope that the Court would declare itself non-competent in this particular matter.

52) Paul de Waart, 'Israël moet muur op Palestijns gebied ontmantelen' [Israel Must Dismantle the Wall on Palestinian Territory], *VN-Forum*, 2004/2, pp. 1-6.

states on board appeared to have been decisive, also because The Hague proved successful by these means in inserting several anti-terrorist provisions into the disputed resolution. This was, after all, the first meeting of the United Nations General Assembly in which the enlarged European Union of 25 member states had taken part. As the delegation of the kingdom of the Netherlands had been instructed for New York, 'An important basic principle for the Netherlands' presidency will [...] be to harmonize and propagate the views of the EU member states'.⁵³ Since no further measures were attached to the non-binding decision of the General Assembly, the matter passed. Palestinian efforts to institute sanctions against Israel through the UN and the EU were politely declined by Dutch foreign minister Bot.⁵⁴ Pressure from the United States was decisive here. All in all, this was a rather half-hearted performance, clearly illustrating the dilemmas of European Middle East diplomacy and of its presidency.

The European attitude towards prime minister Ariel Sharon's disengagement plan showed a similar ambiguity. The EU supports the Israeli intention to withdraw from the Gaza strip and it has expressed that support in successive statements made by the Middle East Quartet (the US, Russian Federation, EU and the UN), such as on 4 May and 22 September 2004. However, the EU strongly criticized the large-scale action of the Israeli army in the north of the Gaza strip in October 2004, which caused many Palestinian casualties. And in contrast to the United States, the EU does not have a good word to say about the other side of Sharon's coin – that is, the de facto annexation of the larger Jewish settlements on the West Bank. In a stinging statement of 14 April 2004, Javier Solana made it emphatically clear that Israel should withdraw behind 'pre-1967 borders', and that any departures from this position can only be accepted in a 'negotiated settlement'. Furthermore, the Dutch EU presidency reacted with irritation to Sharon's announcement about expanding the existing settlements, this to reassure his own Likud following, but contrary to the requirements of the Roadmap.

Yasser Arafat was another bone of contention. In contrast to the United States, the European Union had maintained contact since 2002 with Arafat on the highest level, as illustrated by the many visits of European foreign ministers to the beleaguered Palestinian leader, as well as by the 'medical hospitality' that President Jacques Chirac extended to Arafat in Paris during his final days in November 2004. The EU hoped that Arafat could still exert a moderate influence on the centrifugal forces in the region, and that he would relinquish power to a new Palestinian leadership. Michel Barnier considered

53) *Guidelines for the delegation of the Kingdom of the Netherlands to the 59th session of the UN General Assembly in New York*, The Hague, Ministry of Foreign Affairs, 2004.

54) *NRC Handelsblad*, 3 September 2004.

Arafat's isolation as detrimental to the peace process.⁵⁵ But Sharon's unrelenting ban was shared by Shimon Peres's Labour Party, as well as by the Bush administration, which was backed up in this case by the Democratic US presidential candidate John Kerry. During his election campaign, Kerry called Arafat 'an outlaw of the peace process' and a 'failed leader'. It is thus not clear what business the European foreign ministers still had in the presidential ruin in Ramallah. Europe had remained on good terms with Arafat for more than 30 years in the hope of being able to force him to moderation. Yet, at the decisive moments, the EU lacked a strong hold on the Palestinian dictator. Indeed, all of the respect paid by the Europeans to Arafat appears only to have confirmed his obstinate leadership.⁵⁶ Arafat's death on 11 November 2004 has removed a stumbling block in the transatlantic relationship, and in prospects for the peace process.

Meanwhile, the strained political relationship between the EU and Israel continued unabated.⁵⁷ Israel was incensed by European condemnation of the 'Wall' and argued that as well as Hamas, Hezbollah should also be placed on the EU's list of terrorist organizations. During the informal meeting of the European foreign ministers in the southern Dutch town of Valkenburg on 3 and 4 September 2004, the Israeli foreign minister Silvan Shalom protested against the new EU association agreement with Syria, a state that had for so long provided shelter to the Shi'ite Hezbollah fighters.⁵⁸

But, at the same time, Israel likes doing business with the EU in the economic, technological and scientific areas. Already the first associated member of the European Framework Programme for Research and Development, in July 2004 it became a partner in the Galileo project for the development of European navigation satellites, which Dutch foreign minister Bot signed on behalf of the EU Council. Furthermore, the long drawn-out conflict on the 'rules of origin' was cleared up during the Dutch EU presidency. Israel's vice-prime minister Ehud Olmert has acknowledged that products originating from the occupied territories cannot freely enter the European common market. These controversial export products of Jewish

55) Barnier made this clear during his visit to Jerusalem in October 2004; see *Le Monde*, 19 October 2004.

56) During his visit to Ramallah in May 2004, Dutch foreign secretary Bot tried to induce Arafat to relinquish control over the security services to Palestinian prime minister Qurei, as Bot reported in the Dutch parliament; see *Tweede Kamer der Staten-Generaal*, 2003-2004, 23432, No.162, 25 May 2004, p. 1. But Arafat retained power, despite Qurei's threat to step down; see *Ha'aretz*, 27 July 2004.

57) In a confidential report, the Centre for Political Research of the Israeli ministry of foreign affairs warned of a 'collision course' with the European Union; see *Ha'aretz*, 13 October 2004.

58) Israel appears to be getting its way in this matter considering Dutch foreign minister Bot's announcement in the Dutch Parliament on 1 November 2004 that he will attempt to put Hezbollah on the EU's list of terrorist organizations.

settlers are of little economic importance to Israel, and Jerusalem does not want unnecessary frictions over trade matters on top of the already existing political problems. An agreement between Israel and the EU was reached in July 2004 to that effect.

Progress in the ESDP

Since the transatlantic and European clash over Iraq in 2003, European foreign and security policy is at great pains to close the ranks of the EU-25 and to show the world European resolve and unity. This is clearly also the case in the area of defence. The European Security and Defence Policy (ESDP) took off in 1999 with the formulation of the celebrated Helsinki Headline Goal, but particularly since the mishap over Iraq, considerable progress has been made, both in institutional and operational terms. The 'Artemis' operation in the Democratic Republic of Congo, which was launched in June 2003, was essentially a French mission, but with the participation of twelve EU member states and the close involvement of the European institutions, it could also be considered as the EU's first out-of-area military mission.⁵⁹ The start of the European Union's police missions in Macedonia and Bosnia in 2003 also lifted Europe's spirits. At the same time it became clear that the US would allow the EU to take over command of SFOR in Bosnia, which was planned for December 2004 during the Dutch EU presidency.

During the second half of 2003 (under the Italian EU presidency), various other initiatives were taken in an obvious attempt to strengthen the European defence identity in the wake of the transatlantic crisis. France, Germany and the UK took the lead. Preparations were made for a new Headline Goal 2010, the creation of EU battle groups and the establishment of a European Defence Agency, which began its work on 12 July 2004. In November 2003 the EU had also reached a compromise with the US over the establishment of a European military headquarters. The initial idea of France, Germany, Belgium and Luxembourg to set up a separate EU headquarters in Tervuren (near Brussels) was dropped in favour of the creation of a liaison between the EU Military Staff (civilian-military planning cell) and SHAPE (Supreme Headquarters, Allied Powers, Europe). During the Irish presidency, all of these initiatives in the field of ESDP were formally approved by the EU Council, and the Dutch could make a start with their implementation.⁶⁰

59) *EU Crisis Response Capability Revisited*, background report of the International Crisis Group, Brussels, 17 January 2005, pp. 46-7.

60) These paragraphs draw heavily on a report written by two Dutch defence experts who were closely involved with the Dutch presidency; see Auke Venema and Dick Zandee, 'Europese

In the area of defence cooperation the Dutch were therefore jumping on a moving train. The Dutch ministry of defence, which for the first time in its history was involved with organizing the EU presidency, had in September 2003 set up a task force to prepare the ground, and the Dutch had already in December 2003 presented a non-paper with a proposal to organize a military capability and commitment conference in autumn 2004. The joint Irish-Dutch 'operational programme of the Council for 2004' allowed for an active Dutch role during the Irish term, which the Dutch defence minister Henk Kamp and his officials used for a series of bilateral contacts, both with larger and smaller member states, neutrals and newcomers included.

This network proved highly useful. British defence minister Geoffrey Hoon, for instance, had already in spring 2004 aired his support for the idea of a military capability and commitment conference, while his French colleague, Michèle Alliot-Marie, supported Dutch wishes to step up European coordination of strategic transport facilities.

Well before the official start of the Dutch term, the Dutch therefore knew their homework pretty well in the area of ESDP. Their official mandate included: to elaborate the Headline Goal 2010; to commit member states to the battle groups; to evaluate the European Capability Action Plan through a conference; and to ensure the smooth transition from SFOR to EUFOR, or 'Althea' as the EU-led operation in Bosnia and Herzegovina is called. French plans for a global approach on deployability were also put on the agenda, together with the – rather general – topic of international cooperation among the European armed forces.

These points were initially discussed during an informal meeting of EU defence ministers in the Dutch seaside resort of Noordwijk on 17 September 2004, but were also prepared by smaller groups of ministers and officials beforehand. Agreement was reached in Noordwijk by the defence ministers of France, Italy, the Netherlands, Portugal and Spain to create a European gendarmerie force of some 900 troops, with headquarters in Vicenza in Italy.

Non-EU participation in the battle groups, in particular, proved to be a hot item, but the Dutch insisted on this point to ensure future Norwegian or Turkish participation. On 22 November 2004 the EU defence ministers met in Brussels for the military capabilities and commitment conference, which was prepared with close cooperation by the Dutch EU presidency and the EU 'big three' of France, Germany and the United Kingdom. It was decided *inter alia* to create thirteen battle groups, and to set up one single network for the coordination of strategic land, air and sea transport. New objectives for Europe's military capacity were formulated, with a kind of supervisory role for the European Defence Agency. In order to adopt their decisions formally, the 25 EU ministers of defence (who lack a proper defence council under the EU

defensie: het Nederlandse EU-voorzitterschap' [European Defence: The Dutch EU Presidency], *Atlantisch Perspectief*, 2005, No. 1, pp. 15-20.

treaties) took the unique decision of convening in the shape of the Council for General Affairs and External Relations, but without the presence of the foreign ministers. Finally, the formal transfer of SFOR to EUFOR in December 2004 (to which the Irish had also contributed) marked the end of a fruitful period for the Dutch EU presidency.

The Dutch had taken advantage of the positive ESDP mood that had existed since the second half of 2003, and of the fact that they had had a long preparatory runway. As a neutral country, Ireland is not a key player in ESDP, and during the first half of 2004 the Irish government had focused primarily on the completion of the IGC for the constitutional treaty, leaving the Dutch a free hand in defence matters.

Despite all of the useful steps made in ESDP, these cannot hide the fact that the EU member states, the Netherlands included, still take decisions over their military presence in Iraq or Afghanistan on a largely individual basis, without any binding EU coordination, and with a powerful role from the US in the background. The Pentagon was officially briefed by Dutch defence officials about the Dutch EU presidency's various plans and proposals, and is said to be satisfied with the results.⁶¹

Turkish Delight

To fix a date for the start of accession negotiations with Turkey was certainly considered the apotheosis of the Dutch EU presidency – the ‘jewel in the crown’ in the Dutch prime minister’s own words. Since the European Council of 16-17 December 2004 in Brussels agreed to set that date for 3 October 2005, one may conclude that in this respect the Dutch EU presidency was successful. A number of obstacles, however, had to be removed before the dice could be cast.

To begin with, during autumn 2004 a number of EU member states still showed considerable doubt over Turkish membership at all. While D-Day approached, critical voices in Germany, France, Austria and the Netherlands became louder. German chancellor Gerhard Schröder himself can live with full Turkish membership in the future, but his German CDU/CSU opposition indicated that it would only accept a ‘privileged partnership’. Socialist opposition in France started a hot debate over the question in a similar way, and the same thing happened in Chirac’s own UMP party. Chirac, who is personally not against membership, was forced to promise a future referendum over Turkish entry in order to stave off the anti-Turkish proposals

61) At least according to the evaluation of the Dutch defence ministry. See *Een geslaagd EU-voorzitterschap met lessen voor de toekomst: Evaluatie van het voorzitterschap van de Europese Unie op defensiegebied* [A Successful Presidency with Lessons for the Future] (The Hague: Ministry of Defence, 10 March 2005), OBBD 0524, p. 8.

of his political rival and UMP party chief Nicolas Sarkozy. Austria was squarely opposed, while Balkenende also had troubles on his home front, including diverging opinions on the matter inside his cabinet. The conservative-liberal coalition party (VVD) was sharply divided, while in the Christian-democratic party (CDA) of prime minister Balkenende and foreign minister Bot, concerns were raised over Turkey's human rights situation and the position of minorities such as the Christians. Partly, however, this was a tactical ploy to convince an increasingly anti-Turkish Dutch mood that the decision over Turkish entry would not be taken lightly.

At the same time, close contacts were needed with Nicosia and Ankara. The Cypriot government was in principle prepared to allow entry negotiations with Turkey, but in return it demanded full recognition of the Cypriot state by Ankara. Turkey, however, was not prepared to go further than some sort of indirect recognition. Ankara was also adamantly opposed to new conditions beyond the Copenhagen criteria, or to be trifled with by the offer of a surrogate membership formula such as 'privileged partnership'. Turkey insisted on being treated in the same way as every other EU candidate-member.

The European Council had to take its decision on the basis of the European Commission's report on enlargement of 6 October 2004. This report opened up a serious prospect for starting negotiations, but it formulated some preliminary conditions and also aired some doubts about the outcome of the negotiations as such. It is interesting to note that the Council presidency was closely involved with drafting this report. Romano Prodi and Günther Verheugen had consulted Dutch officials over their drafts, in order to pre-empt later objections from member states as much as possible.⁶²

In the days leading up to the December 2004 summit, Dutch diplomacy went into full gear to get the EU-25 onto one line, and to secure a cooperative attitude from Nicosia and Athens. Balkenende himself flew to Berlin and Paris, and also went to Vienna to listen to Wolfgang Schäussel's objections. Signs boded well, however, when the summit took off in the evening of Thursday 16 December 2004. Schröder and Chirac had already, with British permission, given the green light for the date of 3 October 2005 during Balkenende's visits to Berlin and Paris, so Austria had to give in. However, when Balkenende went to Turkish prime minister Recep Erdogan with the Council's draft conclusions, things turned sour. Erdogan refused to accept the conclusions when this would imply recognition of Cyprus. The Dutch had clearly underestimated Turkish resistance on this point. Negotiations resumed on Friday morning 17 December 2004 in a tense atmosphere. Balkenende had asked Blair and Schröder to work on Erdogan, while Chirac had to tackle a possible veto by Tassos Papadopoulos, the Cypriot prime minister.⁶³ At this

62) See the report of Syp Wynia in *Elsevier*, 22 January 2005, p. 26.

63) *Ibid.*

stage, a smaller country's presidency clearly needed the active support of the 'big three' in order to succeed. The division of labour worked, and Erdogan accepted indirect recognition of Cyprus, via the Turkish signature of the modified EU-Turkey Association Agreement (made necessary as a consequence of the accession of ten new EU members). From their side, Balkenende, Schröder and Chirac promised to issue a public statement that Turkey had not yet fully recognized Cyprus. The (near) crisis was over, and prime minister Balkenende could receive the compliments of his European colleagues (and of Washington) in the knowledge that without the help of the 'big three', he would probably have missed the 'bang' with which the Dutch EU presidency went out.⁶⁴

Other Points

Apart from these highlights, the Dutch EU presidency had to deal with a wide range of other internal and external EU matters, to a large extent part of the EU's running programme and handled by successive presidencies without a specific 'national' imprint. Summit meetings in The Hague with India, China and Russia are cases in point.

In the field of economic cooperation and internal market regulation, the Dutch EU presidency purposely invested in the smooth operation of the Council's formation for competitiveness.⁶⁵ Dutch economic affairs minister Laurens Jan Brinkhorst managed to increase coherency and team spirit by initiating confidence-building measures such as informal dinners on the evening preceding meetings. He also resorted to new formulas such as splitting up the 25 member states into a small number of 'working parties', and appointing a rapporteur in each of them for the plenary sessions.⁶⁶

Discussions on the celebrated Lisbon strategy, chaired by former Dutch prime minister Wim Kok on the basis of the report by the High-Level Group, were conducted in a less optimistic mood. The Kok report, which was presented in October 2004, acknowledged that halfway to 2010 the overall picture of the Lisbon strategy is very mixed, and much needs to be done 'in order to prevent Lisbon from becoming a synonym for missed objectives and

64) As adequately commented by the *Financial Times*, 'Low-Profile Dutchman Goes Out with a Bang', 16 December 2004.

65) The Competitiveness Council was created through the merger of three previous configurations (internal market; industry; and research). Depending on the items on the agenda, this Council is composed of European affairs' ministers, industry ministers and research ministers, etc. It meets approximately five or six times a year.

66) Information based on interviews at the Dutch ministry of economic affairs.

failed promises'.⁶⁷ The Dutch EU presidency could do little more than pave the way for official evaluation of the Lisbon strategy in March 2005.

Related dossiers include the Council's decision to reduce the 'administrative burden': the costs for the private sector of complying with EU legislation. In 2003, the newly elected Dutch government committed itself to identifying and reducing the administrative burden for businesses by 25 per cent by the end of its term in 2007. According to much-quoted estimates, around half of the administrative burden in the Netherlands originates from EU legislation. Reduction of administrative costs was on the priority list of the Dutch EU presidency, although this was initially not very well received by the European Commission. Through a bilateral offensive, however, The Hague managed to convince upcoming EU presidencies to propose lists of European rules and legislation that could be simplified or redrawn. Moreover, the member states reached agreement on the need to devise common EU methodology for measuring the administrative burden, ensuring that explicit account is taken of this cost when new legislation is being developed. The Luxembourg EU presidency promised to take up this issue. In the field of economic regulation and legislation, agreement has been reached *inter alia* on the so-called 'merger directive' and on two directives concerning capital requirements and auditing.⁶⁸

Little progress was made in the field of the EU multi-annual budget, known as Agenda 2007. Huge financial interests are at stake here, with EU member states holding sharply conflicting positions. Serious decision-making on this dossier probably has to wait until the last pressing moments under the Luxembourg or even British EU presidencies in 2005. This is a blessing in disguise for the Netherlands. As the largest net contributor in the EU-25 – per capita the Netherlands contributes four to five times as much to Brussels as for instance does Denmark – the Dutch government has an enormous interest in reshuffling EU member states' financial burdens in a more balanced way. With its term completed, it may now fully promote its national priorities in this regard, without being bothered by the neutrality principle of the EU presidency.

Last but not least, the Dutch EU presidency proudly presented a framework agreement on the Doha round of negotiations on trade liberalization in the World Trade Organization. The so-called 'July package' was agreed on 1 August 2004 by the WTO's 147 member governments. Securing this agreement after months of intense negotiations was politically salient, given that the September 2003 Cancun ministerial conference had

67) See Hans Labohm, *Evaluation of the Netherlands' EU Presidency*, paper presented at the TEPSA Conference, Luxembourg, 5-6 December 2004.

68) As listed by the government itself on <http://www.eu2004.nl>, *Looking Back Briefly on the Dutch Presidency of the European Union, July-December 2004*, 17 December 2004 (downloaded 17 January 2005).

ended in deadlock. The Dutch EU presidency allegedly played an important part in this success, with officials who were involved claiming that the successful negotiations were partly because of the warm personal relations between Laurens Jan Brinkhorst and EU trade commissioner Pascal Lamy.

Conclusion

In this paper, we have identified three key ambitions of the Dutch presidency: (1) the management of the enlarged Council with 25 member states; (2) providing political guidance; and (3) feeding Europeanisation at home. Looking back, how should the overall presidency be evaluated?

As to the first point, it is safe to conclude that the handling of the EU-25 caused fewer complications than some had feared. In most cases the new member states were eager to comply with the EU business at hand and clearly did not want to rock the boat only a few months after their *joyeuse entrée*. Older members, like France or the UK, could sometimes less easily be handled than a new member state like Poland. At the same time, the presidency provided the Netherlands with a unique chance to show itself a 'loyal partner' to the ten new member states, and hence, to improve its strategic position in the wider Europe.

A second ambition of the presidency was to provide political guidance to the EU. Notwithstanding the extraordinary institutional circumstances and the relatively short period available for legislative work – which in the end was even shorter because of the late coming into office of the new Commission – the total number of rules and legislation adopted is rather impressive, ranging from areas like animal welfare to the Machine directive and from battle groups to short sea shipping. But setbacks and crises occurred as well. The illness of the prime minister during the larger part of September and October, for instance, severely hampered the personal ambition of Jan Peter Balkenende to profile himself. And the murder of Dutch cineast Theo van Gogh in November temporarily focused most Dutch attention to the domestic

scene, away from the newly decided multi-annual programme for justice and home affairs. The political crisis around the appointment of the Barroso Commission, and the dealing of the presidency with the revolution in Ukraine, triggered critical remarks for lack of leadership. The Hague had also noticed that, particularly in European foreign policy, the larger member states tend to take the lead, often disregarding the EU presidency's formal responsibilities.

Thirdly, the presidency was considered a useful means to stimulate 'Europeanisation': the way the national administration and politics deal with the demands of European policy-making. Generally, Dutch EU policy making is rather fragmented and ministers within the government coalition often hold diverging opinions as regards European dossiers. In order to coordinate the organisation and contents of meetings at the EU-level and to prevent inconsistencies between Dutch positions, special inter-ministerial co-ordination mechanisms – such as a ministerial steering group – were added to the already impressive patchwork of existing EU-committees.

Overseeing the way in which the presidency period has been dealt with at the central government level, it can be concluded that the presidency was characterised by quite unusual teamwork among the principal ministers and departments concerned. Perhaps due to the extensive preparations, such as an intensive interdepartmental training course, and thanks to the effective functioning of coordination structures the presidency was not hampered by interdepartmental power struggles. It remains to be seen, however, whether the government will be able to keep the awareness of the importance of European cooperation within the central administration, but also in public opinion, at a consistently high level. The referendum on the European constitution, due in June 2005, will certainly prove valuable in this respect.

In the media the Dutch term was dubbed 'a mixed success', 'low-profile', or 'colorless'. And some hold the view that it had a 'transitory' character, right after the big achievements of the Irish. And yet, the – historic – decision about Turkish entry may count as a considerable feat of arms for the prime minister and his team, particularly since the question nearly became a serious crisis during the hectic summit of 16/17 December in Brussels.

The respondents to our survey estimated that the record of this presidency may serve to increase Dutch standing internationally and contribute to further network-building with the EU institutions and the member states, particularly the younger ones. Whether this will happen remains to be seen – but it seems safe to conclude that the intensive presidency period in the latter half of 2004 was for the Dutch certainly not a waste of time.

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