



**Assembly of Western European Union  
The Interparliamentary European Security and Defence Assembly**

**DOCUMENT A/1844**

**2 December 2003**

**FORTY-NINTH SESSION**

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**Prospects for the European security and defence policy (Part II) –  
reply to the annual report of the Council**

**REPORT**

submitted on behalf of the Political Committee  
by Mr Gaburro, Rapporteur

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reply to the annual report of the Council*

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AMENDMENTS

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<sup>1</sup> Adopted unanimously by the Committee on 24 November 2003.

<sup>2</sup> *Members of the Committee:* Mr *Martínez Casañ* (Chairman); MM Pangalos, *Hancock* (Vice-Chairmen); MM André, de Assis, Mrs Azevedo, Mr van Baalen, Mrs Bolognesi (Alternate: *Manzella*), Mr Delattre, Mrs Delvaux-Stehres, Mr Duivesteijn, Mrs Durrieu, MM Floros, Goutry, Guardans I Cambó, Höfer, Hörster, *Liapis*, van der Linden, Lintner, Marshall, Masseret, Nazaré Pereira, Mrs Paoletti Tangheroni, MM Piscitello, Poty, Provera (Alternate: *Gaburro*), Puche Rodríguez, de Puig, Rizzi, Rochebloine, Roth, Mrs Tritz, Lord Tomlinson, MM Versnick, *Vis*, Wilkinson.

*Associate members:* MM Akçam, Ates, Çavusoglu, Fajmon, Mrs Grabowska, MM Hegyi, Kaminski, Kasal, Kobielski, Livanelli, Marthinsen, Nemeth, Pelc, Tabajdi, Width, Wojciechowski, N...

N.B. *The names of those taking part in the vote are printed in italics*

**RECOMMENDATION 736<sup>1</sup>**

***on prospects for the European security and defence policy (Part II) –  
reply to the annual report of the Council***

The Assembly,

- (i) Noting, with thanks to the Council, the summary of the European Union's ESDP activities during the first half of 2003 given in the first part of the 49<sup>th</sup> annual report of the Council to the Assembly;
- (ii) Stressing the usefulness of the joint meetings between several Assembly committees and the members of the WEU Permanent Council/EU Political and Security Committee (PSC) that took place on 13 February and 22 October 2003 in Brussels;
- (iii) Recalling that the work on drawing up a first European security strategy based on the draft submitted by the WEU Secretary-General in his capacity as High Representative for the CFSP involves a fundamental revision of the traditional concept of defence in the face of the new global threats;
- (iv) Recalling in that regard Assembly Recommendation 685 of 19 June 2001 on "Revising the European security concept – responding to new risks";
- (v) Taking the view that it is essential for the WEU Secretary-General to present to the Assembly as soon as possible the main lines of the European security strategy in its revised version and to launch the necessary dialogue with the representatives of the 28 national parliaments represented in the Assembly;
- (vi) Regretting that the annual report provides no information either about the activities of NATO as the organisation responsible for guaranteeing the military implementation of the mutual defence commitment subscribed to by the signatories to the modified Brussels Treaty, or about the activities of the WEU Secretary-General as the guarantor of the full application of that Treaty;
- (vii) Noting with surprise that in 2003 neither the WEU Council's annual report to the Assembly nor the EU Council's report to the European Parliament on the CFSP provides any information at all about developments in the Satellite Centre or the Institute for Security Studies, or about the activities of the bodies created by the European Union to take over the relevant functions of WEU – namely the Political and Security Committee (PSC) and its working groups, the EU Military Committee and the Military Staff – or about other groups that have been created without the knowledge of the parliamentary bodies;
- (viii) Welcoming the Council's reply to Written Question 383 confirming the full validity of the Declaration on WEU enlargement adopted by the WEU member states on 10 December 1991 at the European Council summit at Maastricht;
- (ix) Convinced that the forthcoming enlargement of the EU and NATO makes it incumbent upon the Council to revise its assessment of 14 June 2001 and to review the status in WEU of the countries acceding to the European Union and/or NATO;
- (x) Stressing the responsibility of the WEU Secretary-General, who was appointed Head of the future EU armaments agency on 17 November 2003, for developing constructive working relations between that Agency and the WEAG and WEAO bodies;
- (xi) Desirous that the Council adopt a more forward-looking attitude to those parts of the negotiations in the Intergovernmental Conference that affect the areas covered by the modified Brussels Treaty,

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<sup>1</sup> Adopted by the Assembly without amendment on 2 December 2003 (8<sup>th</sup> sitting).

## RECOMMENDS THAT THE COUNCIL

1. Ensure that the final text of a European security strategy:
  - (a) specifies to what extent the “pre-emptive engagement” that is proposed differs from the doctrine of “pre-emptive strikes” advocated by the United States’ National Security Strategy;
  - (b) defines more clearly the conditions in which the security strategy could be conducive to extending the right of individual and collective self-defence to cover specific threats far outside Europe’s borders;
  - (c) draws a clear distinction between:
    - threats likely to lead to measures for individual and/or collective self-defence;
    - (terrorist) threats likely to be combated by means of measures taken on the basis of a solidarity clause as proposed by the Convention on the Future of Europe;
    - crises to which it would be appropriate to respond on the basis of the enlarged range of Petersberg missions;
    - threats to peace, breaches of the peace or acts of aggression that may lead to coercive action by the United Nations in accordance with Chapter VII of the UN Charter;
  - (d) takes a stance on the future role of the doctrine of deterrence and on the concept of missile defence;
  - (e) defines the criteria that must be met to justify, or indeed to demand, military intervention, in particular where there is a deadlock in the UN Security Council;
  - (f) devotes a specific chapter to cooperation with NATO and the United States;
  - (g) draws up proposals with a view to speeding up the EU decision-making process in the event of a crisis;
2. Follow up Assembly Recommendation 721 by including information about NATO activities in the field of European defence in its annual report, as it did in the past and promised to do in its reply to Recommendation 685;
3. Inform the Assembly in its annual report of the activities of the WEU Secretary-General and encourage him to continue presenting a status report on the European Security and Defence Policy to the plenary sessions of the Assembly, as was the custom in the past;
4. Provide more substantial replies to recommendations and written questions on subjects covered by the modified Brussels Treaty, even if those subjects are dealt with in other fora, and in particular in the European Union and NATO;
5. Refrain from discouraging European countries interested in WEU and the modified Brussels Treaty from taking the necessary steps, pursuant to the Declaration by the WEU member states of 10 December 1991, to obtain a status within WEU or to change their current status;
6. Call on the WEAG Council and on the WEU Secretary-General to ensure that any negotiations that may take place with a view to merging the functions of WEAG and WEAO with those of the EU armaments agency should fully preserve the expertise of the two bodies as well as the rights enjoyed by those of their member countries that are not members of the European Union;
7. Seek, in cooperation with the Assembly, solutions for ensuring that the representatives of the national parliaments receive adequate information about the activities of the bodies whose functions were transferred from WEU to the European Union.

**EXPLANATORY MEMORANDUM***submitted by Mr Gaburro, Rapporteur***I. Introduction**

1. In parallel to the work being done by the Intergovernmental Conference (IGC), the EU member states are further stepping up their efforts to take more responsibility for carrying out crisis-management missions and implementing a security and defence policy that can genuinely be described as “common”, notwithstanding the divisions that have arisen among member states on a number of current issues, in particular management of the Iraq crisis.
2. The introduction to the first part of the 49<sup>th</sup> annual report of the Council to the Assembly on the Council’s activities for the period from 1 January to 30 June 2003<sup>2</sup> summarises the main problems the Union must currently deal with: establishing a common political will, speeding up the decision-making process and developing and guaranteeing the funding of the requisite capabilities.
3. That is not all, however. So as to give the ESDP a clearer sense of direction in the face of a whole host of new threats and dangers, emanating in particular from international terrorism, and to define more precisely the role and interests of the European Union in international relations, a European security strategy – an initial draft of which was drawn up by the WEU Secretary-General/High Representative for the CFSP – is to be finalised in time for the European Council summit scheduled for 12 and 13 December 2003. Clearly such a concept is fundamental for future European action and it must have the support of European citizens represented by their national parliaments. Without the broadest possible consensus on the objectives to be pursued in order to give the EU a capacity for action there can be no European defence.
4. In order to win the necessary support of European public opinion there must be a public debate not only at national, but also European level. The debate at European level remains based essentially on the dialogue between the Assembly and the Council of WEU which takes many different forms: first, the work done by the Assembly committees to enable parliamentarians to draw up common positions on specific defence questions; then the Assembly sessions, which provide the only European framework in which the representatives of the national parliaments, on the basis of the Council’s annual report, can launch a public debate and dialogue on those issues; and finally, thanks to the informal joint meetings that are organised twice a year, there is a dialogue between the Assembly committees and the members of the WEU Permanent Council who are also members of the EU’s Political and Security Committee (PSC).
5. Neither the current Treaty on European Union nor the draft Treaty establishing a Constitution for Europe submitted by the Convention to the Intergovernmental Conference make provision for a comparable framework for that collective involvement by the national parliaments in the debate on the European Security and Defence Policy.
6. The purpose of the present report is therefore to highlight the importance of maintaining a dialogue between the Council and an interparliamentary body of the kind that is provided for under the modified Brussels Treaty. The outcome of the Intergovernmental Conference will have an impact on the future application of that Treaty and on the activities of the Assembly, which is one of the components of WEU whose functions have not been transferred to the European Union. This makes it all the more important to ensure that everything achieved by this Assembly – in particular the quality of its dialogue with the governments represented in the Council, but also its role of interparliamentary body open to a large number of European countries whose national parliamentarians wish to familiarise themselves with the manner in which European democracies exercise oversight over security and defence policy – is not forgotten.

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<sup>2</sup> Document [A/1833](#) of 6 October 2003.

## II. *The (non-) debate on drawing up a European security strategy*

7. One – very brief – paragraph of the Council’s annual report was devoted to the ongoing work in the EU on drafting a global European security strategy. The possibilities for the representatives of the national parliaments to be involved in the European debate on that concept vary widely. The meeting held on 22 October 2003 in Brussels with the WEU Permanent Council – whose members are also their countries’ Permanent Representatives on the EU’s Political and Security Committee (PSC) – provided the fifty or so members of the Assembly with only a little general information about the state of play in this area. They learned on that occasion not only that three seminars had been organised – on 19 September 2003 in Rome, on 6 and 7 October 2003 in Paris and on 20 October 2003 in Stockholm – with a view to completing the initial document submitted by Mr Solana on 20 June 2003<sup>3</sup> in Thessaloniki, but also that those seminars had been “open to the public”.

8. That description appears to be somewhat exaggerated, however, given that the seminars took place very discreetly without the participation of the national parliaments, let alone that of the WEU Assembly. While it is reasonable that the drafting of such a concept should be done first and foremost by the executive, there is nonetheless an obvious need to seek the broad support of citizens through their parliamentary representatives. A public debate is necessary as of the preparatory phase in order to give the public at large a better grasp of the issues at stake and allow it to provide some input.

9. Whether and how the parliaments of the member states are involved in the European debate on the European security strategy, above and beyond the information that individual parliaments may call on their governments to provide according to their specific national procedures, is strongly indicative of the degree of “democratisation” of the Common European Security and Defence Policy. On 10 September 2003 the European Parliament held a joint meeting between its Committee on Foreign Affairs and the chairmen of the foreign affairs and defence committees of the national parliaments of the member states, to which it invited a very small number of representatives of the WEU Assembly and NATO Parliamentary Assembly. The purpose of the meeting was to hold an exchange of views with Mr Solana on the first draft of his strategic concept. That meeting was useful in that it highlighted not only the usefulness, but also the limitations of such meetings. Indeed, it was to have provided the opportunity for a frank discussion, but the fact that the High Representative for the CFSP is not directly accountable to the European Parliament meant that he could leave the meeting well before its scheduled end and before many parliamentarians, in particular from the national parliaments, had had a chance to put their questions.

10. Such joint meetings may be useful, in particular as an opportunity for the members of the European Parliament and the national parliaments to learn about each others’ positions, but they are totally insufficient in terms of offering any proper dialogue with the European executive. They cannot therefore replace an institutional arrangement making provision for a regular dialogue between a body composed of the representatives of the national parliaments and the governments represented in the Council, as was stressed by Mr Armand de Decker, the Speaker of the Belgian Senate, during the meeting with the Permanent Council on 22 October 2003.

11. As far as the content of a European security strategy is concerned, the Defence Committee examined the defence aspects on the basis of the report submitted by Mr Gubert that was adopted on 4 November 2003<sup>4</sup>. The present report will therefore limit itself to developing a number of complementary political aspects, taking into account the current state of progress of the work on drawing up a strategic concept.

12. It is interesting to note that Mr Solana’s initial document does not start with an attempt to define the common security interests of the EU member states. Nevertheless those interests are apparent in the strategic objectives set forth by the draft document, which states that the EU’s first interests are to be found in its immediate neighbourhood. Secondly, it calls for an international order “based on effective multilateralism”.

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<sup>3</sup> See the document “A secure Europe in a better world”.

<sup>4</sup> See Assembly [Document 1841](#).

13. However, the global approach that this idea of multilateralism implies is weakened by the geographic approach to assessing threats. Hence it is still not sufficiently clear whether EU action is from now on to be contingent on establishing that there has been a violation of a new international order based on multilateralism and compliance with the principles entrenched in the United Nations Charter regardless of where such a violation has taken place, or whether it is to be governed by specific interests in a given geographic region of the world.

14. It is useful in that respect to study more closely the way in which the document evaluates the new threats. One may wonder whether it is useful to draw a distinction between “new” and “traditional” terrorism for the purpose of drawing up strategies to combat them. In any event we are confronted with terrorists willing to use unlimited violence and means of destruction. Nevertheless one should not forget that the terrorist threat has not simply replaced traditional threats, as the Lithuanian Delegation so rightly recalled in its comments on the first part of this report that it submitted on 15 October 2003.

15. Indeed, there are still ethnic conflicts in some countries and the dangers emanating from authoritarian regimes have not entirely disappeared. Regarding the definition of appropriate responses to the identified threats, Mr Solana’s document sets out some interesting ideas on a “pre-emptive engagement” of the European Union that it wishes to dissociate from the American concept of pre-emptive strikes, but which leaves a number of questions unanswered.

16. First of all, since the document is almost entirely devoted to the fight against terrorism, the responses it proposes are geared to the terrorist threat, without drawing any detailed distinction between state-sponsored terrorism and terrorism perpetrated by independent groups. It proposes to use for that purpose “a mixture of intelligence, political, military and other means”. Furthermore, it states that deterrence would be useless in the face of terrorist groups that will stop at nothing.

17. Can the problem of weapons proliferation really be contained through export controls and attacked through political and economic pressure, as suggested by Mr Solana? According to the approach set out in the initial document, it may be necessary to use military instruments in order to restore order in “failed states”. However the document proposes no criteria for establishing which states fall into that category, neither does it say what strategy should be applied with regard to a state that is threatening its neighbours.

18. In order to clearly define appropriate responses to the various threats, the final version of the document should give further details of what is entailed by “pre-emptive engagement”. In that regard it is interesting, indeed striking, to note that Mr Solana’s document establishes a link between the new threats which are often far away from Europe and the traditional concept of self-defence, noting that “with the new threats the first line of defence will often be abroad” (as opposed to being on the borders of the threatened state).

19. Taking as an example North Korea’s nuclear activities and the nuclear risks in southern Asia which are “of concern to Europe”, the document calls on us to rethink, indeed completely redefine, the term “self-defence”. Indeed, as pointed out by Mr Solana at the meeting at the European Parliament on 10 September 2003, some European countries would be in favour of revising or reinterpreting the content of Article 51 of the UN Charter on the right of individual and collective self-defence, but they do not specify the direction such changes should take.

20. The displacement of the “first line of defence” to far away regions as suggested in Mr Solana’s document is not without risks and dangers. Indeed, when a threat to peace emerges in a given region, it must be assessed to see whether it constitutes a danger that would make it necessary to invoke the right of individual and collective self-defence or whether it can be managed in the same way as a crisis of the Petersberg type. Any broadening of the scope of application of “self-defence” must be envisaged with the utmost caution and it must be limited to strictly defined types of threat so as to avoid any misuse of the legitimate right of self-defence. The strategic concept should for its part elaborate on the issue of how the European Union could strengthen United Nations coercive action in the case of a threat to peace, a breach of the peace or an act of aggression, in compliance with Chapter VII of the UN Charter.

21. Invoking the right of individual and collective self-defence in the case of a terrorist attack like that of 11 September 2001, as NATO did then and as the United States did to justify the intervention in Afghanistan is highly problematic. Why is this? The reason is that the fight against terrorism is not one that can be managed according to the usual rules of warfare. It is a different form of threat for which there is no provision either in the UN Charter or the military alliance treaties. Even though the fight against terrorism may call for the use of military means, its legal basis remains to be defined. It is in that light that we must consider the solidarity clause proposed by the Convention on the Future of Europe with a view to protecting the member states against the terrorist threat. Such a clause is quite different from a mutual defence commitment.

22. If the document advocates developing a “strategic culture that fosters early, rapid, and when necessary, robust intervention”, then how does it differ from the American concept of pre-emptive strikes?

23. If the strategic concept is to move in the direction of redefining the concept of self-defence, then it must address the question of the future usefulness of deterrence. If deterrence is not effective against terrorists, is it still useful against other types of threat and if so, which ones? With regard more particularly to the threat of the use and proliferation of weapons of mass destruction (WMD), the strategic concept needs to set out a wider range of possible counter-measures than is proposed by the first draft. This also applies to the development, use and proliferation of medium- and long-range missile technology.

24. The document focuses on the dangers of proliferation but is silent about the threat posed by the development of weapons of mass destruction and their means of delivery and by the willingness of some countries to use those weapons. The European security strategy must therefore take a stance on missile defence projects or at least on innovative forms of deterrence and other protective measures.

25. Regarding the aim of establishing an international order based on “effective multilateralism”, a number of points need to be clarified. First of all, what criteria must be met to justify, or indeed to demand, military intervention? A UN Security Council mandate is not a sufficient criterion, as was demonstrated by the NATO intervention in Kosovo. The European Union must agree on a strategy to be adopted in cases where no multilateral consensus can be reached in the UN Security Council. How in the future can we avoid a rift among EU member states like the one that arose over the Iraq crisis?

26. Everyone would seem to recognise the need to prevent a humanitarian disaster or genocide, but is the European Union as a whole prepared to enter into a formal commitment to try and prevent such tragedies from being repeated in the future, anywhere in the world? To be credible any EU commitment to humanitarian intervention has to be worded with the utmost caution in the strategic concept.

27. Regarding the stability of the European Union’s immediate environment, the concept needs to define in more detail the nature of the relations that the EU wishes to develop with Russia and its objectives as regards resolving the problems currently besetting Belarus, Ukraine and Moldova.

28. Concerning the development of international relations and cooperation with the EU’s main partners, Mr Solana’s document is rather vague about the political line the EU intends to take in the future with regard to transatlantic cooperation and burden-sharing, and cooperation with NATO and more specifically with the United States. It would be very desirable to devote a chapter of the document to those issues and to underline their importance.

29. The most difficult part of analysing a concept that is still in its drafting stages is to grasp the fundamental objectives underlying it. Mr Solana announces in that regard that “the best protection for our security is a world of well-governed democratic states”. Establishing the rule of law is also given as the best way of strengthening the international order. However, the document cautiously fails to mention whether the European Union wishes to export its common democratic values and, if so, how.

30. Neither does it take on a position on the question of whether the EU should support or oppose intervention with a view to imposing democracy in a country or removing an authoritarian regime. This being the case, the proposals concerning “pre-emptive engagement” on the part of the Union are extremely vague.

31. Finally, the document tackles a fundamental problem concerning what it describes as the “coherence” of the future European Security and Defence Policy. It states that our objective “should be to create synergy” and that “diplomatic efforts (...) should follow the same agenda”. However, the document envisages coherence solely from the angle of better coordination among the different instruments used by the European Union and by the EU member states in particular. This is an important point but does not resolve the fundamental problem.

32. Indeed, if the aim is to make the Union an effective and credible player on the world stage, then there must be a frank discussion of whether this can be done with a “common” policy that is reduced to its smallest common denominator or whether the long-term aim is a genuinely “single” European policy, particularly on security and defence. At present there is no unanimous agreement on such an objective. Far from it, the EU member states find it difficult to adopt a common policy even on such issues as the Iraq crisis and they have not yet found a strategy for overcoming their differences in such situations so as to prevent a rift among the member states. Mr Solana, for example, stresses that “the Alliance should determine the mission and not vice versa”<sup>5</sup>, while the British Prime Minister, Tony Blair, stated during his address on 18 July 2003 to the US Congress that “It is not the coalition that determines the mission but the mission, the coalition. I agree. But let us start preferring a coalition and acting alone if we have to; not the other way round”. It is precisely on the question of how to settle this problem during future crises that the strategic concept should take a position.

33. Problems of internal and external security are increasingly intertwined. To meet internal security challenges in the European Union that have their roots outside Europe, it may be difficult to decide whether the measures to be taken are a matter for the ESDP or fall within the field of police and justice. Furthermore the EU can no longer avoid a debate on the question of whether or not the ESDP instruments are to be used exclusively outside the European Union’s borders. This is a distinction that NATO does not make. As a consequence, if for example a large-scale terrorist attack were to be directed against a country outside the European Union, then in the present situation the EU could mobilise the ESDP in order to come to that country’s aid, but should the same sort of attack be carried out in Brussels, the ESDP could not be used to come to Belgium’s assistance.

34. Finally, it will be necessary when drawing up the final version of the document, to address the very practical question of how to decide the time has come for the Union to move on from political, economic or other action to military intervention. The European Union takes the view that it can implement, separately or together, a wide spectrum of economic, political, humanitarian and social measures but also, if necessary, take military action or measures to maintain law and order. To that end it makes use of the global approach offered by the fundamental provisions of Article 3 of the Treaty on European Union. However, the effectiveness of that approach depends not only on the political resolve to act, but also on the ability of the EU decision-making structures to reach agreement fairly quickly. The most difficult task is to arrive swiftly at a consensus on the appropriate action to be taken in a given situation and then to implement the agreed measures as soon as possible. It will be essential to give a very high-level body – possibly a European Security Council – specific decision-making powers for that purpose.

35. Regarding capabilities, we welcome the fact that Mr Solana’s document unreservedly advocates increasing the resources allocated to defence in order to deal with the new threats. One can only hope that in the final document this crucial demand will not be watered down or weakened on the grounds that it is important to develop civil capabilities.

### ***III. Developments in the application of Article IX of the modified Brussels Treaty***

36. The very brief information given by the first part of the Council’s 49<sup>th</sup> annual report to the Assembly on the EU’s ongoing work to develop a European security strategy and the discussions on the draft concept that took place at a joint meeting between several Assembly committees and the Permanent Council on 22 October 2003 in Brussels are important elements as regards the future application of Article IX of the modified Brussels Treaty.

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<sup>5</sup> See the article by Javier Solana entitled “The future of transatlantic relations; reinvention or reform?” published by Progressive Governance on 10 July 2003.

37. Indeed, in Recommendation 721 the Assembly reiterated a request expressed in previous recommendations for the Council to continue providing information in its annual report on the development of the ESDP. The Council has followed up that request in that it has included in its annual report information on the launch of EU crisis-management missions such as the EU Police Mission (EUPM) in Bosnia and Herzegovina, Operation Concordia in the Former Yugoslav Republic of Macedonia (FYROM) and Operation Artemis in the Democratic Republic of Congo, which was the first EU-led autonomous operation.

38. The annual report also takes stock of the situation as regards military capabilities with a view to the next phase of the European Capability Action Plan (ECAP). It refers to the operational pre-financing and financing mechanisms for EU-led military missions and analyses the proposals discussed within the EU for enhancing armaments cooperation in accordance with the decision taken by the Thessaloniki European Council to set up an intergovernmental agency within the EU with competence for armaments cooperation.

39. Although the information summarised in the introduction to the annual report is not sufficiently detailed to cover the full range of problems confronting the EU, and in particular the Political and Security Committee (PSC) and the Council of Foreign Affairs Ministers, in their day-to-day work, it nevertheless provides at least the beginnings of a basis for dialogue on the ESDP between the parliamentary representatives within the WEU Assembly and the relevant EU bodies. During the – what the Council describes in its report as “customary” – informal meetings that the members of the Assembly have been having since the end of WEU’s operational activities with the representatives on the WEU Permanent Council and the EU’s Political and Security Committee (PSC), the Ambassadors answer parliamentarians’ questions about issues falling specifically under the ESDP, which is a good sign.

40. That being the case, it is difficult to imagine that the Council could now refuse – as it has sometimes done in the past – to reply to written questions about specific ESDP issues<sup>6</sup>. The same applies to the Council’s replies to Assembly recommendations. It is no longer acceptable that the Council should refuse in its reply to Recommendation 729 to say what angle is being taken on space-related issues within the European Union. The reply to recommendation 731 is also insufficient in that it provides no tangible information about the EU’s plans for the future stabilisation of the Balkans.

41. Furthermore, the Council has not responded to the request expressed in Recommendation 721 to include information about NATO activities in its annual report. Apart from a few references to the permanent EU-NATO “Berlin plus” arrangements and to the start of work by the EU-NATO group on capabilities, it says nothing about specific NATO activities or about the ongoing discussions in the Alliance on the future role of NATO and its implications for the Organisation’s activities. That omission is unacceptable because Article IV of the modified Brussels Treaty entrusts to NATO the military responsibility for guaranteeing implementation of the mutual defence commitment subscribed to by the ten signatory states to the Treaty.

42. It is therefore in the interests of the Assembly and the public at large to be informed about NATO strategy and the efforts being made by its military authorities to address both traditional threats and the new threats to Europe’s security. Would NATO continue to consider attacks like that of 11 September 2001, should they occur within Europe, as an armed attack in the meaning of Article 5 of the Washington Treaty? How is NATO organising the protection of Europe against threats resulting from the production and proliferation of weapons of mass destruction and their means of delivery? It is above all within NATO that questions pertaining to the future role of deterrence, nuclear weapons, preventive deployments and other protective measures, such as missile defence systems, are settled.

43. There is therefore every reason to ask the WEU Council to resume the tradition of giving information on NATO activities in its annual report. Indeed, NATO is the instrument through which

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<sup>6</sup> See, for example, the Council’s reply to Written Question 381 submitted by Mr Wilkinson on 19 April 2002, in which the Council was unwilling to say which working groups had been set up by the EU’s Political and Security Committee (PSC), Military Committee and Military Staff.

the WEU Council complies with its treaty-based obligations in the field of mutual and collective defence.

44. The Council's replies to the Assembly recommendations should also be seen in that light. Recommendations 722, 723, 725 and 726 address a series of topical issues concerning not only the European Union but also the collective defence for which NATO is responsible, such as the development of naval power, the participation of the United States in the NATO Response Force and the consequences of the United States National Security Strategy for European security. This is why it is unacceptable that the Council's replies to those recommendations should be confined to recalling that the issues raised will be dealt with by the competent bodies, without giving any indication of how they are being addressed by NATO.

45. Hence it is indispensable to restore communications between NATO and the WEU Council and/or Secretariat-General and to ask NATO to continue reporting to WEU on its military activities, in accordance with Article IV.2 of the modified Brussels Treaty and the Resolution adopted by the WEU Council on 15 September 1956 on the levels of the forces placed by the WEU powers under NATO command. If it proves impossible to re-establish the tradition of regular consultations between WEU and NATO, suspended by decision of the WEU Council on 13 November 2000, it is essential at least for the Council, as it used to do in the past, to obtain from NATO all the information it needs to reply to the Assembly's recommendations concerning NATO military activities.

46. The Council's obligation to report on NATO activities in the field of collective defence should also apply to the activities of the WEU Secretary-General who is also the High Representative for the CFSP. Mr Solana's double-hatted role gives him an extremely important responsibility and a heavy work load entailing, as everyone recognises, a very busy schedule. Under those circumstances it is essential that the Council's annual report should explain how the Secretary-General is carrying out those dual responsibilities. Unfortunately, however, there is no reference to the Secretary-General's activities in the first part of the Council's 49<sup>th</sup> annual report.

47. The only reference to his activities for the previous year is to be found in the second part of the 48<sup>th</sup> annual report, in which the Council informed the Assembly of its decision to renew Mr Solana's mandate as WEU Secretary-General until 24 November 2004. Furthermore the Council informed the Assembly in the same report that on 19 November 2002 it had approved the Secretary-General's report on a review of the staff and structures of the WEU Secretariat-General.

48. Unfortunately, the Secretary-General has not so far supplied the Assembly with any information at all on this subject, either orally or in writing, since he has not addressed the Assembly at a plenary session since 5 December 2001. On that occasion he informed the Assembly, among other things, about the activities of the scaled-down Secretariat-General and about the prospects for the future activities of the Satellite Centre and Institute for Security Studies following their transfer to the European Union.

49. On the same occasion Mr Solana made a very important remark concerning the need for the "successful continuation of the activities of the Institute for Security Studies and the Satellite Centre as agencies of the European Union". But who on the parliamentary side can now monitor the activities of those two institutions? Since December 2001 neither the annual report of the Council nor the WEU Secretary-General have given the Assembly information about developments in those new EU agencies.

50. Within the European Union itself the European Parliament is hardly better informed, although since 1999 the EU Council has been submitting to it an annual report on the "main aspects and basic choices of CFSP", covering in particular their financial implications for the European Communities' general budget. The report that the Council submitted to the EP in April 2002 for the previous year describes the functions of the two new EU agencies as follows:

"The Satellite Centre (...) will support the decision-making process of the Union in the context of the CFSP, in particular of the ESDP, by providing material resulting from the analysis of satellite imagery and collateral data, including aerial imagery as appropriate. The Institute (...)

will contribute to the development of the CFSP, including the ESDP, by conducting academic research and analysis in relevant fields”.

51. Yet there is nothing at all about the activities of the Satellite Centre and Institute for Security Studies in the EU Council’s annual report of 7 April 2003 to the European Parliament. This deficit of parliamentary information that has arisen following the transfer of most of WEU’s functions to the European Union is confirmed by a number of other examples: following the *de facto* cessation of the activities of the WEU Permanent Council and its working groups, those functions have been taken over in the EU framework by the Political and Security Committee (PSC) and its working groups. The WEU Military Committee and Military Staff ceased to exist and their functions were transferred to the newly created EU Military Committee and EU Military Staff. But no parliamentary body at European level is kept informed about their activities: neither the annual report of the WEU Council to the Assembly nor the EU Council’s annual report to the European Parliament on the main aspects of the CFSP gives information about the work of those three bodies.

52. Yet it is in those three institutions that the relevant decisions concerning the CFSP and ESDP are prepared and taken. The information deficit on the side of the Council is further aggravated by the difficulties that Mr Solana has in assuming his constitutional task as WEU Secretary-General of presenting a regular report at the WEU Assembly’s plenary sessions like all his predecessors have done since 1986. The occasional hearings given by Mr Solana in his capacity as High Representative for the CFSP to the European Parliament or even COSAC (which has no competence for the CFSP or ESDP) do not provide the representatives of the national parliaments with appropriate information on the activities of the EU and its competent bodies in those areas.

53. The present situation in which the representatives of the national parliaments are the victims of the governments’ inability to deal with the consequences of their Marseilles and Nice decisions for the parliamentary scrutiny of the ESDP cannot be permitted to last. Given the uncertain outcome of the Intergovernmental Conference and the fact that parliamentary bodies understand and support government policies better if governments opt for transparency, the Council would be well advised to enrich its future annual reports with more complete and detailed information.

54. Regarding the consequences of the forthcoming EU and NATO enlargements for WEU as regards a possible increase in the number of signatories to the modified Brussels Treaty, the Council confirmed in its reply to Written Question 383 the validity of the declaration on WEU enlargement adopted by the WEU member countries at the Maastricht Summit on 10 December 1991<sup>7</sup>. It also recalled the decision taken by the WEU Council on 14 June 2001, according to which “in the present foreseeable circumstances, there is no need to make any formal change to the statuses of non-full members”. The first part of the Council’s reply is reassuring, but the question remains whether the Council considers the forthcoming EU and NATO enlargement to be circumstances that justify revising its assessment of June 2001.

55. In that regard the Council specified in its reply to recommendation 721 that it did not intend “to anticipate any official *démarche* either by one or more of the countries concerned requesting a change of status or by third countries expressing an interest in WEU”. The only actual case that has arisen so far to the Assembly’s knowledge is that of Croatia. According to the Council’s reply to Written Question 382, Croatia enquired at the beginning of July 2003 about the present situation and tasks of WEU as well as about future prospects for the modified Brussels Treaty. The Assembly does not know what reply the Council gave the Croatian representative, but the Council informed the Assembly that “vis-à-vis the Council, no formal initiatives have been taken by the Croatian Government to date with a view to institutionalising relations between Croatia and WEU”.

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<sup>7</sup> The Declaration reads as follows: “States which are members of the European Union are invited to accede to WEU on conditions to be agreed in accordance with Article XI of the modified Brussels Treaty, or to become observers if they so wish. Simultaneously, other European Member States of NATO are invited to become associate members of WEU in a way which will give them the possibility of participating fully in the activities of WEU”.

56. When the Council says it does not wish to “anticipate” possible démarches by countries interested in WEU and its Treaty, its attitude could be interpreted as meaning that the Council has no specific interest in enlarging the Organisation or inviting a third country to accede to the modified Brussels Treaty according to the terms of Article XI. The Assembly is not kept informed of the results of any informal contacts between interested countries and the Treaty signatories. However, in the case of Slovenia, according to information it received from the Slovenian parliamentary delegation to the Assembly as well as press reports, the WEU Secretary-General told Slovenian parliamentarians during a visit to Ljubljana that there was no longer any point in signing up to the modified Brussels Treaty.

57. In the present circumstances the Assembly can only strongly advise the Council representatives against any policy consisting of discouraging third countries from acceding to the Treaty. On the contrary, the Assembly is convinced that the modified Brussels Treaty continues to be an essential factor for Europe’s security. This is why it can only encourage new EU and/or NATO members to take the necessary steps vis-à-vis the WEU Council on the basis of the 10 December 1991 Declaration.

58. The same encouragement should be given to all states wishing to join more inclusive European armaments cooperation structures such as WEAG and WEAO. The Assembly proposed in recommendation 721 that WEAG should adopt a more dynamic approach as a structure for bringing together ongoing initiatives and that it should hold at least one ministerial meeting every six months to provide the necessary political impetus in the framework of a review of WEAG’s role.

59. Yet, during the joint meeting of the Assembly Committees and the Permanent Council on 22 October 2003, the representative of the Dutch WEAG Presidency stated that there were for the moment no specific issues that needed to be submitted to the Ministers and that it was therefore highly likely that the meeting scheduled for 18 November 2003 would be cancelled. This is a particularly disappointing decision in view of the problems being encountered by WEAG and the WEAG Panels which the Council itself refers to in its annual report.

60. WEU has built up a fundamental *acquis* since 1984: it provides a unique European framework in which the Defence Ministers of the countries participating in the Organisation can meet. For three years the WEU Council has no longer been meeting at ministerial level and the European Union is still hesitant about setting up a formal Council of Defence Ministers. Under those circumstances the Ministers could make more use of WEAG in order to make known their views on all matters pertaining to the fundamental issue of strengthening capabilities and to provide political impetus in that area. This is all the more important given that the EU Council decided on 17 November 2003 to give the WEU Secretary-General overall responsibility for the management of the future European armaments agency, tasking him to draw up proposals by April 2004 on how the agency is to be organised and for establishing relations with WEAG and WEAO with a view to incorporating their functions within it.

#### ***IV. Recent developments in the Intergovernmental Conference***

61. As we move into the decisive phase of the IGC negotiations on the defence proposals contained in the draft Constitutional Treaty, the importance of preserving the advantages of the modified Brussels Treaty is becoming increasingly apparent.

62. In spite of the lack of official information about the ongoing discussions within the IGC, it would appear from various press reports that the majority of governments have major reservations about the Convention proposals for establishing “closer cooperation” on mutual defence, while the debate on the arrangements for “structured” cooperation and about setting up an autonomous European “headquarters” continues.

63. Regarding mutual defence, it is interesting to look at the Council’s reply to Written Question 385 in the light of the discussions that took place between the Assembly Committees and the Permanent Council on 22 October 2003. The Council said in its reply to the above question that there was no intention, either now or “in the near future”, of considering the Convention proposal for setting up “closer cooperation” on mutual defence with a view to the future application of the modified Brussels Treaty. Yet during the meeting on 22 October the Council Presidency representative

expressed the opinion that the defence clause proposed by the Convention, were it to materialise, would not take up in full the provisions of Article V and that it would therefore have to be maintained.

64. Thus, although it is too soon to know the Council's common position on the future of the Treaty and of its special provisions, the attitude of the Council and the Presidency would seem to indicate a desire for the Treaty to continue. While some may find that reassuring, others could quite rightly argue that this does not solve any of the problems that have arisen since the European Union started preparing to take on most aspects of the "defence component". This is why all the possible solutions put forward by the Assembly in Resolutions 115 and 117 for avoiding even greater fragmentation in this area remain relevant.

## V. Conclusions

65. In spite of all the difficulties that remain to be overcome in order to build a genuine Common European Security and Defence Policy and to make Europe a credible and effective player on the international stage, there is cause for optimism, in that the need to develop a common political resolve – a prerequisite for any decisions or action – has been understood by the European states concerned, which are showing an increasing desire to reconcile their different positions following the major rift over the Iraq crisis.

66. Even on the most delicate issues, such as organising an effective and credible European defence policy in spite of the heterogeneity within the Union and differences of opinion on how to reconcile a stronger commitment to European defence with transatlantic obligations, and how to manage relations with NATO and with the United States in particular, in the end the governments will find a form of words that they will all be able to support, although the institutional form of such an agreement remains to be settled.

67. However, there is a serious danger that the agreement that is eventually thrashed out will have been so difficult to negotiate that it might evade issues not directly related to intergovernmental cooperation. We must ensure that there is no recurrence of what happened at Nice, when the European Council failed to propose appropriate solutions for the parliamentary dimension of the ESDP. A German expert noted in an article on "the inadequacy of parliamentary scrutiny"<sup>8</sup>, that "the national parliaments are the losers in a process of internationalisation and Europeanisation of policy". Events cannot be permitted to prove him right, at least in those areas that are still a matter for intergovernmental cooperation.

68. Continuing to submit an annual report to an Assembly like the WEU Assembly with a view to providing a basis for discussion and dialogue between the representatives of the national parliaments and the Council is a modest but essential contribution to maintaining the collective participation of the national parliaments in framing and monitoring European policy agreed by consensus among governments. However, some governments take a more restricted view of the Assembly's activities.

69. At the end of the report on WEU's activities from 1 January to 31 December 2002 that the German Government submitted to the Bundestag on 11 August 2003, we find the following statement:

"In the framework of the Assembly there is a regular and serious dialogue with the associate member and associate partner countries. With a view to the forthcoming enlargement of the EU to include the ten accession candidates and to their integration in the ESDP the question arises of transferring that dialogue to other fora".

70. If no solutions can be found in the EU framework that will allow the dialogue between the representatives of the national parliaments and the Council to continue, or that will establish a political and legal link between the procedures for parliamentary scrutiny set out in the modified Brussels Treaty and the new EU Constitutional Treaty, then the national parliaments will inevitably be the losers.

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<sup>8</sup> Wolfgang Wagner, in *Blätter für deutsche und internationale Politik*, 9/2003, page 1111.

## AMENDMENTS<sup>1</sup>

### Amendment 1

*tabled by Sir Teddy Taylor*

1. In paragraph 1 of the draft recommendation proper, add at the end the following new sub-paragraph:

“(h) makes provision for member states of the European Union who have joined the proposed common defence policy to withdraw from it, provided that they have given reasonable notice.”

*Signed: Sir Teddy Taylor*

### Amendments 2-4

*tabled by Mr Gaburro*

2. At the end of the preamble to the draft recommendation, add the following new recital:

“Noting with interest the reply of the Council to Recommendation 732 and considering that the text proposed following the Naples conclave as a mutual defence clause in the EU Constitutional Treaty is considerably weaker than the obligation contained in Article V of the modified Brussels Treaty and could not therefore replace the latter;”

3. At the end of the preamble to the draft recommendation, add the following new recital:

“Considering also that this text ignores the question of the military guarantee for implementing a mutual assistance clause subscribed by EU member states which are not members of NATO;”

4. In the draft recommendation proper, insert the following new paragraph before paragraph 1:

“Continue to apply the modified Brussels Treaty in its integrity, and in particular Article V thereof, and invite the new member states of the EU and NATO to accede to the Treaty in accordance with Article XI;”

*Signed: Gaburro*

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<sup>1</sup> Amendment 1 rejected; amendments 2-4 withdrawn.