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**TOWARD A COMMON DEFENCE POLICY:
DECISION-MAKING AND INSTITUTIONS**

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This chapter considers the decision-making process and the institutional prospects of the Common Defence Policy (CDP) and Common Defence (CD) of the European Union (EU) in the perspective of the Intergovernmental Conference (IGC) of 1996, and beyond.

Already in 1995 the EU has three new members (Austria, Finland, Sweden). It is likely that by the year 2000 a further enlargement process will have added five to seven additional members to the Community of fifteen states. Very few, if any, of these new members will also join the Western European Union (WEU).² The process of reaching a consensus among all the members will be very slow and difficult. The decision-making process will become more difficult, indeed almost impossible, unless significant reforms take place.

Any progress towards the CDP and eventual CD will proceed from Article J.4 of the Maastricht treaty - i.e., it will develop from the Common Foreign and Security Policy (CFSP). On the basis of this, the EU "requests the Western European Union (WEU), which is an integral part of the development of the Union, *to elaborate and implement* decisions and actions of the Union which have defence implications" (Art. J.4.2, emphasis added). Moreover, Article J.4.5 maintains that "The provisions of this Article shall not prevent the development of closer cooperation between two or more Member States on a bilateral level, in the framework of the WEU and the Atlantic Alliance, provided that such cooperation does not run counter to or impede that provided for in this Title."

Thus, the Treaty establishes a formal linkage between the EU and WEU. Yet, if it is clear that WEU will act as the arm of the EU on defence matters, WEU is not limited to acting on the basis of requests from the EU. The WEU is not a *formal* component of the EU. The evolution of the Union as established in the Maastricht treaty would suggest that such a development could take place later. At present, WEU does not depend on the EU in its deliberations and actions.

Still, this legal distinction seems of little practical value when important political decisions are under consideration. It is unlikely that WEU would take major security decisions nor initiate defence actions,

¹This chapter was written by Stefano Silvestri (Istituto Affari Internazionali, Rome) based on previous work and in cooperation with Nicole Gnesotto (Institut Français des Relations Internationales, Paris) and Alvaro Vasconcelos (Instituto de Estudios Estratégicos Internacionais, Lisbon). It represents a general agreement among the authors even if does not necessarily coincide with the preferences of any one of them.

²All new members of the EU can apply for membership to the WEU, and Article XI of the modified Brussels Treaty states that "The High Contracting Parties may, by agreement, invite any other State to accede to the present Treaty on conditions to be agreed between them and the State so invited." One member state has already declared that it will not accept any new member that does not simultaneously apply for membership in the Atlantic Alliance, in order to maintain the identity between WEU and the "European pillar" of the Alliance. It has also been made clear that only countries which are members of the EU will be considered for membership. It seems therefore that, for the time being, no enlargement of WEU will take place unless it is related to enlargement of these two other organizations. Alternative arrangements have been established. The European members of the Atlantic Alliance, which are not members of the EU, can become *associate members* of WEU. The members of the EU that are not members of the Alliance or do not wish to become members of the WEU can become *observers*. The Central European and Baltic countries have been offered, and have accepted, an *associate partnership* with the WEU and may participate in the CFSP and intergovernmental cooperation in the fields of justice and home affairs, in advance of their full entry into the EU.

disregarding the EU and without previous consultation and deliberations within the framework of the CFSP. Moreover, Article C of the Treaty on European Union states that "The Union shall in particular ensure the consistency of its external activities as a whole in the context of its external relations, security, economic and development policies." The Treaty does not include any explicit, automatic defence guarantee among its members (unlike the WEU treaty), although it is true that the content of various titles of the Maastricht treaty (in particular of Titles I and V) suggests that EU members share large and vital common security interests and will act in common to protect them.

WEU is undergoing a process of reform and *deepening*, creating and considering new structures (the Planning Cell, and possibly a European Armaments Agency) and new categories of membership (*Observers, Associate Members and Associate Partners*). Some initiatives taken in the WEU framework (e.g. the association of Central European countries, the French Operation TURQUOISE in Rwanda and the decision to study the establishment of a special *Humanitarian Task Force*), point to an internal dynamism in WEU that is autonomous from but complementary with that of the EU.

A process of divergence between the EU and WEU may result from a growing difference in membership, with major consequences for the efficiency and coherence of decision-making. Already the IGC of 1996 will see the participation, on an equal footing, of five members of the EU that will not also be full members of WEU (Denmark, Ireland and the three new members). Two possibilities follow: first, that all or some of these non-WEU members of the EU may want to remain completely outside any development of the CDP and of an eventual CD. This could increase the divergence between WEU and the EU. Second, that these members of the EU may want to maintain the right to express their views (in the European Council, and vote on CFSP issues) on requests by the EU to WEU to undertake specific policies and actions, without becoming members of WEU. In a way this second development would help to maintain the linkage between WEU and the EU: it would confirm WEU as an integral part of the process of European unity. Yet it would also create additional problems, making the CDP and CD decisions dependent on the wishes of members of the EU that do not share the commitments to common defence and security undertaken by the members of WEU.

The wording of the Maastricht treaty suggests a kind of *institutional variable geometry* for the CDP and the eventual CD of the EU:

- because the Treaty puts them in the intergovernmental decision-making framework of the CFSP, which is different from that established for the European Community or the European Monetary Union (EMU);
- and because the relationship between the EU and WEU is based on the assumption that these two institutions, while strictly interrelated for the development of the European Union, remain separate, at least for the time being.

It may be possible to build on this *variable geometry* and try to lessen some of its possible inconsistencies, the aim being to reach a coherent and effective CFSP/CDP/CD of the EU.

Terms of reference

No treaty obliges the European nations to share their decisions on crisis-management, peacekeeping, peace enforcement and the like. Of course, if the 1996 IGC were to decide to include in the Maastricht

treaty the terms agreed upon in Art. V of the modified Brussels Treaty,³ The EU would take on responsibilities for collective self-defence. The EU would almost inevitably absorb WEU as its *defence pillar*. More probably, however, the CFSP of the EU will remain a consultative mechanism that can take decisions recommending military means for crisis management, but has no obligation to do so.

This means that, apart from the commitment to maintain a credible allied military posture (within the North Atlantic Treaty Organization - NATO) and not to damage nor run counter to the provisions of the EU treaty, the WEU member states are free to commit themselves to *joint actions* in the field of defence and security outside the areas and the cases covered by Articles 5 and V of the Washington⁴ and Brussels Treaties.⁵ Therefore, it is very likely that all *joint European actions*, when unrelated to those cases and areas, will see the active participation of some countries only (the formation of a *coalition of the willing*). At least for a while, therefore, any new decision-making mechanism for the CDP or the CD should still allow such a possibility.

Collective self-defence, on the other hand, is firmly based on the Washington and Brussels Treaties. Today, no one challenges the unique and central role of NATO in collective defence (recognized also by France in the latest *Livre Blanc de la Défense*). In the perspective of a CDP and an eventual CD, it is reasonable to argue that this function should also be included among the responsibilities of the Union as a whole. Such a development will require the establishment of a renewed Atlantic relationship between the EU and the United States that will inevitably result in modification of NATO's structures and operations⁶. An important problem for the time being, however, is closer coordination between NATO and WEU.

Different commitments pose different challenges to the European institutions to be effectively carried out⁷. This means that a progressive enlargement of common European security and defence interests and policies should go in parallel with an institutional deepening.

In this regard, it is important to underline the key question of the *European legitimation* of security and

³Art. V of the modified Brussels Treaty establishes that "If any of the High Contracting Parties should be the object of an armed attack in Europe, the other High Contracting Parties will, in accordance with the provisions of Article 51 of the Charter of the United Nations, afford the Party so attacked all the military and other aid and assistance in their power."

⁴Art. 5 of the Washington Treaty states that "The Parties agree that an armed attack against one or more of them in Europe or North America shall be considered an attack against them all and consequently they agree that, if such an armed attack occurs, each of them, in exercise of the right of individual and collective self-defence recognised by Article 51 of the Charter of the United Nations, will assist the Party or Parties so attacked by taking forthwith, individually and in concert with the other Parties, such action as it deems necessary, including the use of armed force, to restore and maintain the security of the North Atlantic area." Art. 6 specifies that these provisions apply ". . . on the territory of any of the Parties in Europe or North America, [or the Algerian Department of France,] on the territory of Turkey or on the Islands under the jurisdiction of any of the Parties in the North Atlantic area north of the Tropic of Cancer; on the forces, vessels or aircraft of any of the Parties, when in or over these territories or any other area in Europe in which occupation forces of any of the Parties were stationed on the date when the Treaty entered into force or the Mediterranean Sea or the North Atlantic area north of the Tropic of Cancer."

⁵Whose commitments apply to the signatories to the Washington and Brussels Treaties only, and not to the entire EU.

⁶This question is discussed in Chapters 2, 3 and 6.

⁷And reference could be made to different Articles of the Brussels and Washington Treaties. Art. 4 of the Washington Treaty establishes that "The Parties will consult together whenever, in the opinion of any of them, the territorial integrity, political independence or security of any of the Parties is threatened." Art. VIII.3 of the modified Brussels Treaty states that "At the request of any of the High Contracting Parties the Council [of Western European Union] shall be immediately convened in order to permit Them to consult with regard to any situation which may constitute a threat to peace, in whatever area this threat should arise, or a danger to economic stability."

defence initiatives taken by a member or members of the EU. Apart from the more general problem of a wider legitimation drawn from the United Nations (UN) or the Organization for Security and Cooperation in Europe (OSCE), many European countries favour the option of setting any military operation in which they are involved in a European framework (e.g. Portugal and Spain in the Gulf) or of getting some kind of supportive European legitimacy (e.g. France in Rwanda). Meanwhile, unilateral national actions by a single country in the fields of foreign and security policy, without the agreement of its allies, looks increasingly unacceptable.

This chapter concentrates on the most likely outcome of the 1996 IGC, and on the eventual development of a CDP. The point of departure is the complex and lengthy decision-making process of the CFSP, which is characterized by several institutional *navettes* and numerous bodies that can take initiatives. One of its paralysing features is a system of *multiple vetoes* deriving from the provision for unanimous decisions to be taken at different steps of the decision-making process, established by the Maastricht treaty.⁸

Other points of interest are the working relationship between the EU and WEU (in the light of past experience) and the absence of a clear-cut decision on the financing of *joint actions*: Art. J.11 of the Maastricht treaty establishes two different procedures, either charging them to the Community budget (by unanimous decision of the Council) or making *ad hoc* arrangements. No general rules for burden-sharing exist among the member states, either for *joint actions* or for special initiatives undertaken by some members only.

Changes in the decision-making process

Very likely, and for many years to come, it will be practically impossible to abolish completely a national right of veto on matters concerning national defence. None the less, all major European nations are interested in establishing *joint actions*. The problem is how to combine the maintenance of national rights with the possibility of an effective CDP/CD. This question needs to be considered both within WEU and in the EU, but it is more urgent at the EU level, because of its enlargement. Today, any member of the EU Council can veto a request for action from the EU to WEU.

Among the issues to be considered at the EU level are:

- The effects on institutions of having defined some common vital or essential interests of the EU.
- The possibility of reducing the number of occasions on which countries may have recourse to the veto, by streamlining the decision-making mechanism of the CFSP.
- A provision for more frequent utilization of consensus, abstention, opting-out and other expedients.

- The possibility of delegating to some countries the power to act for the EU, in order to reach clearly

⁸This reference is to the provisions of Article J.8 (2), Article J.3 (1 and 2) and Article J.11 (2). According to the first, the EU Council should unanimously agree on the priority areas of the CFSP, and therefore also on common European interests and objectives. According to the second, the Council will unanimously decide on the principle of a *joint action*, agreeing also on the general and specific objectives of such an action. At the same time the Council will unanimously agree on the identification of those specific decisions that, in the course of a *joint action*, could be decided by a qualified majority. According to the third, the Council can unanimously decide that the operational expenditures related to the CFSP will be charged to the Community budget. Otherwise it will recognize that these expenditures will remain a responsibility of the member states. The only limitation to these rules is expressed in a declaration annexed to the Treaty stating: "The Conference agrees that, with regard to Council decisions requiring unanimity, Member States will, to the extent possible, avoid preventing a unanimous decision where a qualified majority exists in favour of a decision."

defined aims.

- The possibility of endorsing *joint actions* conducted by *ad hoc* coalitions (*coalitions of the willing*), with the political and logistical backing of the European institutions.
- The consequences of the CDP for European participation in the UN (especially the Security Council), the OSCE and NATO.⁹

At present, in WEU, the principle incorporated in the *Petersberg Declaration* guarantees members the *right to abstain*: no country can be obliged to take part in a given military operation. There is no reason (nor possibility) to change this basic national right. This means that while no WEU *joint action* can be decided by a majority vote in the WEU Council, there is still no obligation on members to take part in actions which have soon decided.

It is highly unlikely that this will change dramatically. Still, the unanimity requirement can easily block any possibility of members acting in common when they would like to do so, through the opposition of a single country, except for contingencies related to Article V of the Brussels Treaty. There are two possible ways out of this dilemma:

I. To limit military action (on non-Article V decisions) to highly exceptional contingencies (unanimously agreed upon by the members) while organizing *joint actions* through *ad hoc* coalitions, outside the EU or WEU framework, even if these organisations could have a role, through forms of political backing (non-mandatory), as in the cases of land operations in the Gulf or Bosnia.

II. To change the decision-making rules, the main objection being that it is not acceptable that nine or ten countries can decide whether three or four countries should send soldiers to risk their lives, and that it should not be possible to deny a group of WEU countries this opportunity to use and risk their forces in the name of Europe, if only a few oppose it and if the action is consistent with general European interests.

While the first option, which merely maintains the *status quo*, will always be possible, this study concentrates on the second one.

The coherence of the EU

Since the failure of the European Defence Community, the European integration process has followed different paths, within separate institutions. During the 1970s a process of unification started, first with the merging of the Treaties of the European Communities and then with the creation of the EU, which has brought WEU inside the process of European integration. Still, the coherence of the EU structure is not yet complete.

The Maastricht treaty clearly shows a preference for increasing the institutional coherence of the EU. It rationalises EU decision-making as far as international actions related to the competences of the Union are concerned. It gives greater weight to the European Parliament and it clarifies the procedural relationship between the Council and the Commission on foreign policy.¹⁰ It also creates an explicit linkage between the CFSP and the economic and trade policy of the EU: the new Art. 228A establishes

⁹These questions will be addressed in another chapter of this study.

¹⁰For instance, see the new text of Art. 113/3 and 4 (trade policy) and Art. 228 (international agreements of the Community).

that "Where it is provided, in a common position *or in a joint action adopted according to the provisions of the Treaty on European Union relating to the common foreign and security policy*, for an action by the Community to interrupt or to reduce, in part or completely, economic relations with one or more third countries, the Council shall take the necessary urgent measures. *The Council shall act by a qualified majority on a proposal from the Commission*" (emphasis added).

Further problems could result from the enlargement of the EU, from the *variable geometry* of the structure conceived at Maastricht and from the possibility of different integration speeds, resulting in the formation of two or more distinct groups of member countries (two or more EUs?). Various proposals have been made. The idea of one EU characterised by differing *speeds* or variable structures leads to divergent conclusions.¹¹

A two-speed Europe

The proposal by the Parliamentary Group of the German CDU/CSU attempts to safeguard a federal, democratic integration model while increasing its flexibility through the creation of a political and monetary *hard core*. This *hard core* would not become a new institution, but would set the greater coordination and sense of common purpose of its members against the risks of fragmentation. The pace of integration would not depend on the slower participants.

The CDU/CSU wants the strengthening of the CFSP/CDP/CD, which would link military, economic and political security. The economic *hard core*, therefore, should also coincide with the CFSP *hard core*. Its priorities are Central and Eastern Europe, Russia, the Mediterranean, Turkey and transatlantic relations. Majority voting could in its view be applied in the CFSP as well. On the EU institutions, the CDU/CSU proposes gradually to grant more powers to the European Parliament, which should become one chamber of the EU parliament, the other being a reformed Council. The Commission would become the new European Government.

It is not clear how this federal structure would coexist with the *variable geometry* and different *integration speeds* already implicitly recognised in the Treaty. The CDU/CSU seems to hold a twin conviction: that those countries that can and want to integrate more rapidly will be allowed to do so for the sake of progress in the EU, and that the overall unity and coherence of the EU will nevertheless be maintained.

Yet this proposal could mean development in two opposite directions. It could help the effective creation of a larger Economic and Monetary Union (EMU) encompassing all (or almost all) members and becoming the driving force of a federal Europe. Or it could increase regional economic divergence around the *hard core*, widening the economic (and possibly also the political) gap between the *hard core* and the others, contributing to the disintegration of European solidarity and institutional coherence. Therefore, while interesting, this idea should be further refined and clarified, possibly with contributions from all members states and not simply from those of the so-called *economic hard core*.¹²

Europe à la carte

¹¹For a more detailed analysis see *Maastricht Watch* no. 8, July-September 1994, Rome-Milan.

¹²Also because a technical shortcoming of this proposal is that the so-called *hard currency club* presently controls only 32 votes inside the European Council, which is far from the minimum of 54 required to take the decision to initiate the third phase of the EMU.

The British Prime Minister, John Major, has frequently spoken of the EU as nothing more than a simple *association of European nations*, which suggests that some matters will continue to require collective agreement on common objectives (i.e. international trade relations, the internal market, the environment). All other matters, however, could be decided and carried out by a more limited number of countries. Such a system would underline and generalize the mechanism of the *opting out* that the United Kingdom has already used for the social policy chapter of the Treaty on European Union.

A generalized *opting out* provision for all new policies, however, could easily and rapidly multiply the number of European configurations and in practice thwart any attempt at institutional rationalization and coherence. Moreover, too much flexibility could result in a loss of effectiveness. Still, the fact that this proposal has not been formalized¹³ suggests that it may be more a negotiating technique than a positive alternative.

Concentric European circles

This idea, derived mainly from some suggestions put forward by the French Premier, Edouard Balladur, seems different from the CDU/CSU proposal even if it includes the perspective of an *economic hard core* formed by France, Germany and Benelux countries, covered by the CDU/CSU proposal. It lacks, however, the federalist drive of the German proposal and suggests a larger number of "speeds", distinguishing three or more *concentric circles* of countries and transnational regions corresponding to the different pillars of the European Union. While the *acquis communautaires* would be maintained and possibly expanded, members would be able to join their preferred *circle* and stay out of others. Thus several *hard cores* would be formed and not a single one. Moreover, this scheme does not envisage any further democratization at the European level and is not clear on the possible expansion of majority voting.

This idea also differs from the British one because it does not allow for complete freedom of choice but seems to attribute to the members of the *hard cores* some power to decide whether other countries can join it later.

An alternative to the Commission: a strong CFSP Secretariat

A further idea of some interest for this study has been put forward by the Italian Foreign Minister, Antonio Martino:¹⁴ the creation of a *strong* Secretariat (and the establishment of a Secretary-General) of the CFSP that would absorb the present CFSP Secretariat. Various possibilities are considered. The new Secretary-General of the CFSP could have a second appointment as WEU Secretary-General. He could have a *power of initiative* (similar to that of the UN Secretary-General, or the European Commission), or could be like the Secretary-General of the Atlantic Alliance. Should the idea of "double hatting" be retained, most probably the Brussels Treaty would become part of Title J of the Maastricht treaty and the WEU a statutory *pillar* of the EU either immediately or in the longer term.

This proposal, however, might also create a split inside the EU, with an economic-monetary-trade-political Community and a security-foreign policy-defence-internal affairs-political Community. This

¹³And indeed it is almost impossible to formalize. It would be very difficult to decide which matters will be open to the *opting out* and which will be excluded. Moreover, the problem is not only that some countries would like to *opt out*, but that a majority of EU members may want to *keep out* a specific country or to ignore its advice (even if it has not *opted out* from the specific policy decision). Finally, on more significant matters like security or monetary policy, some countries simply *cannot opt out* without destroying the entire policy.

¹⁴And apparently also by the French Minister for Europe, Alain Lamassoure.

distinction is already present in nascent form in the Maastricht treaty, but the institution of a new, *strong* Secretariat-General would formalize it, reinforcing the present distinction and possibly perpetuating it. Thus, it might reduce the effectiveness of the CFSP/CDP/CD by artificially separating economic and monetary policies from security and defence policies, and would run counter to the greater democratization of the EU. Should it be pursued, therefore, it would require a careful rethinking of the relationships between the various institutions and powers of the EU so as to maintain the coherence of the system.

The prospect of the institutional development of a security-foreign policy-defence-internal affairs-political Community, with an independent Secretary-General with powers of initiative and implementation (and possibly leading even to the establishment of majority voting rules) would provoke strong opposition.

Some guiding criteria

The above analysis suggests that the study of possible new institutional options for CFSP/CDP/CD should at least take into account the following requirements.

- The need to maintain and strengthen the political coherence and unity of the EU integration process and policies,
- The need for a degree of flexibility that will increase the effectiveness of decision-making without creating new institutionalized divisions,
- The need to accelerate the process of integration of WEU in the EU, considering various possible alternatives,
- The need for commitment to the further democratization of the EU.

Proposals for institutional reform

This section identifies various possible reforms, concentrating on those most likely to support the effective development of a CDP and an eventual CD. Four choices are theoretically possible.

First: the Separation of the EU and WEU.

One very simple idea would be to accept the current process of creeping separation between on the one hand the CFSP of the EU and the operational aspects of *joint actions*, and on the other hand CDP/CD in WEU with its own operations or *coalitions of the willing*. In practice this would be based on the expected result of a continuation of the present system. It would distinguish between a EU that was only a *civilian power* only and a WEU that was a *military and defence actor*. While the linkage between the EU and WEU (established in the Maastricht treaty) could remain, the enlargement of the EU and the serious constraints imposed by the CFSP decision-making process would cause a *de facto* separation, and possibly more complexities in the decision-making system.

One question raised by this option is whether WEU (and the CDP) could survive further separation from the EU, whether WEU would again drift into irrelevance while the CDP disappeared as an *operational* option, unless it was carried out through NATO. In conclusion, this option does not correspond to the criteria of coherence and effectiveness previously suggested.

Second: the abandoning of Maastricht.

A second, bolder possibility, would be to create a completely new decision-making process, and a new

institution dealing with defence and security, clearly distinguished from the EU, which could act through WEU or an *ad hoc* European Operational Command. Some have proposed the establishment of a European Security Council (ESC) that would institutionalize the present *coalitions of the willing*. It would be open to all those members of the EU willing to contribute effectively to the CD. This proposal may look more effective than the previous one, but it would also abruptly remove powers and competences from the EU. It would have nothing to do with the Maastricht treaty. It would aim at putting the European integration process in the foreign and security field on a completely new footing, clearly and exclusively intergovernmental.

Third: a single European Union.

The opposite course would instead aim at the *fusion* of the EU and WEU treaties and the creation of a single EU. The strictest institutional coherence would require that all policies (the CFSP, the CDP and the CD included) should be *communitarized*, i.e. enacted through the mechanisms already established for the other policies of the European Community. This option, however, seems difficult to achieve, both because not all the EU members are prepared to accept the commitments deriving from Art.V of the modified Brussels Treaty and because it would require a major transfer of national sovereignty to the EU to guarantee the effectiveness of a CD.

Alternatively, it may be possible to decide to *fuse* the treaties while exploiting the opportunity to achieve some flexibility on the question of *communitarization* of decision-making rules and procedures. In practice, the IGC of 1996 could follow the Maastricht path, choosing to strengthen a *single Union with multiple pillars*, and making WEU a formal pillar of the EU like the Monetary Union and maintaining distinct decision-making rules inside it. This approach might gain the support of several member countries but would require a significant rewriting of both treaties. It is unlikely, and it would be imprudent for the next IGC to make such an effort without a careful appraisal of further experience and of various possible decision-making procedures. In practice, while a *single* European Union should be the goal of this option, its realization could be reached through a prudent, step by step approach whose elements could be drawn also from the suggestions below.

Fourth: variable unity.

The term *variable unity* can be used to describe a positive way of organizing *variable geometry* of the EU. It should be open to the progressive inclusion of other members and aim at greater political effectiveness and at helping to speed up the integration process. It could include several features and options. The following suggestions could be carried out together, in sequence or partially. However, they should be seen as part and parcel of a *transitory phase* that will end once a clearer unified EU structure is established.

A: Delegating powers

A first possibility would be to establish the principle that the European Council can *delegate* authority to act to a single member nation or group of nations, defining the aims and the political (and possibly the operational) limits of the *joint action*. Then it would be possible to use the *common structure* of WEU and to establish a burden-sharing mechanism. The decision to delegate, however, would have to be unanimous.

B: Identifying a WEU core

A starting point for effective *variable unity* could be the proposal to change the voting rules of the European Council when CDP/CD questions arise. In practice, whenever there is a willingness to employ WEU, if the Council members that are also members of WEU agree unanimously, the opposition of the other countries could not block this decision. It would not be a great change (the requirement for

unanimity would remain, even if inside a smaller group of countries) but it might solve one difficulty of the present system: the fact that countries that are not in WEU hold a power of veto on the decision to ask it to act.

C: Organizing variable unity

To make the system more effective would also require a better organization of the *variable geometry* already built into the EU treaty in respect of the CFSP, defence and the European Monetary Union (EMU). This reform should aim at:

- increasing the political linkage between the EU and WEU;
- maintaining the operational separation between the two;
- recognizing the different national roles in the CFSP and in the CDP;
- accepting the principle of *coalitions of the willing* for specific European actions;
- increasing the rapidity of decision-making and the effectiveness of actions taken;
- supporting the creation of common infrastructures, operational organisations and military and industrial programmes in WEU;
- establishing equitable burden-sharing among Europeans and deciding how to fund an operational budget.

Many suggestions could be made. A distinction should be made between *common European defence programmes* and *joint actions*. The former should be considered the collective responsibility of WEU (for instance in the fields of intelligence, communications, logistics, and strategic lift) even if they are initiated by a limited group of members. These *programmes* will be complemented by special permanent structures like the WEU Planning Cell and the European Armaments Agency. A WEU operational command could be established in coordination with NATO, as a development of the Combined Joint Task Forces (CJTF) concept, or autonomously. These *programmes* will contribute to the common structure of the European defence, within WEU.

Joint actions would require a separate decision-making procedure. The European Council should maintain its present role of identifying the *common interests and priorities* of the Union (and unanimity will continue to be required). From those *interests and priorities*, the EU's Council of Ministers could identify the opportunity for starting *joint actions* in the fields of security and defence and then request WEU to elaborate on them and to act upon them if it decides to do so. The major procedural change should take place at this point: the EU Council of Ministers should be allowed to decide to identify such opportunities on the basis of a qualified majority (skipping the present requirement for unanimity). In fact, such a vote would not mean that a specific action would start or that new commitments would be undertaken yet. Such a decision by the Council would mean simply that the EU requested WEU to analyse the situation and confirm the possibility of acting. Thus, the decision to effectively start a *joint action* would be devolved by the EU Council of Ministers to the WEU Council.

The latter, either as a result of the EU request or simply from a consideration of the *common interests and priorities* already identified by the EU, could decide to start a *joint action* (and that would require the unanimous decision of all members of WEU).

A limited variation of this procedure could be based on the notion of the *coalition of the willing* that could be formed among some EU members to propose a *joint action*, consistent with the political strategy decided by the European Council. Then, this proposal should receive the consent of the WEU Council (or of the WEU members of the EU). At this point a *special joint action* could be launched, with the participation of the willing countries only. The importance of such a provision is that the *coalition* could use the *common structure* of WEU, that a funding arrangement would be initiated by the WEU

Secretariat, in according with the different roles chosen by members and associates, and that the WEU Secretariat would fully inform the EU Council on the decisions taken and on the developments of the *action*.

Should a member of the EU want to end a *joint action* or *special joint action*, it could urgently convene the EU Council of Ministers¹⁵ and ask for a *vote*: the action would continue if a majority approved.¹⁶

D: Introducing WEU as a formal component of the EU

The modified Brussels Treaty (WEU) could be formally included in an amended Maastricht treaty, establishing EU recognition of its application to all members of *WEU*. Those members of the EU that are not members of WEU would therefore recognize the WEU role in the CFSP and CDP, and commit themselves to avoiding any action that might impede it or run counter to it. Such a decision by itself would not modify considerably what is already established by the Maastricht treaty, except for one significant point: it would make WEU a formal part of the EU. Thus, the present mechanism, according to which the EU Council of Ministers can only *request* WEU to act, would become obsolete and the EU Council of Ministers would simply tell WEU to act.

However, such a change would only be acceptable if the EU simultaneously adopted other measures (such as those listed in the above section) making *variable unity* a working reality and guaranteeing the effectiveness of the CDP/CD decision-making process.

The decision to include the text of the modified Brussels Treaty in the Maastricht treaty is different from the decision to *fuse* the two treaties. However, it would probably initiate a melting process of *communitarization* of the CDP/CD and WEU that could lead to some important modification of the modified Brussels Treaty itself. A significant change would be that the Commission of the EU could also itself propose to the WEU Council, that a *joint action* be initiated. If the *communitarization* of the WEU and of the CDP developed further, it could mean that if a *joint action* were proposed by the Commission, the WEU Council would decide by majority vote.

Also, the problem of revising the roles and powers of the Secretary-General of WEU could arise. Such a revision could be required if the Secretary-General of the CFSP were also Secretary-General of WEU. In particular, it should be made clear whether this new "double-hatted" Secretary-General would hold powers of initiative or not and his relationship with the Commission, the EU Council and the European Parliament would need to be defined.

Command and control of FAWEU

The creation of a CDP, and even more so any eventual CD, poses the question of the command and control of the forces employed and of all the problems associated with military operation themselves. It is of course absolutely necessary to guarantee a stable, unified, effective and clear line of command from the political to the military authority, and to the military units themselves.

¹⁵Obviously the *actions* could also be terminated by a decision of the WEU Council only. Yet, it is important to maintain the possibility for the EU as a whole to vote on *joint actions* in its name.

¹⁶One could imagine other voting rules, i.e that the *action* would continue if a qualified majority approved it, or that the *action* would be stopped if a majority voted against. Also, the Commission of the EU could ask for a *vote of endorsement* and here continuation of the *action* could always require the consent of a qualified majority of the EU Council.

Should a command derived from the CJTF concept be activated, then NATO arrangements and procedures would apply. It will still be necessary to identify a single, clear WEU authority, responsible the EU or, more probably, to the WEU Council, and controlling the military command. At present, this role is exercised by the Presidency of the WEU Council. This arrangement may be ineffective if the Presidency is held by a state that is not taking part in a specific *joint action*. At the same time it is linked to rules of rotation of the Presidency.¹⁷ The likely growth of the *common structure* of WEU and the possibility that various *joint actions* should be managed simultaneously, involving different coalitions of countries suggest that this role could be better exercised by the Secretary-General of WEU. Alternatively, a Special European Representative could be chosen to command each separate *joint action* or group of *joint actions*. In any event, continuous and effective communications should be activated between this authority, the military and European governments and institutions.

A linkage should therefore be established between this authority, the EU Council and the other EU institutions, to ensure that the EU gets all the relevant information in a timely manner and that the *joint action* receives the constant political backing of the EU.

The decision to create a WEU unified European command would probably have to await development of a CD, and should be seen in the light of the evolution of the relationship with NATO.

Funding

It will not be easy to resolve the ambiguity contained in Art. J.11 of the Maastricht treaty. Theoretically, the best solution is that all *joint actions* should be funded by the European Union budget. However, the European Union budget is limited, and any plan to increase the budget would face great political and technical obstacles. Limited resources also mean tight constraints on the number, quality, duration and scale of *joint actions*. Further, if the *joint actions* are treated as *non-obligatory expenditures* of the Budget, the European Parliament will maintain a power of amendment and co-decision (inside the limits set by the Maximum Rate of Increase). This greater power of the European Parliament may be resented by some member countries. Thus, it is likely that the double system envisaged in Art. J.11 will survive for some years to come.

Still, it may be useful to identify some possible improvements to the present system. For instance, a large *contingency fund* could be established, to pay for the first steps of all *joint actions* (to be eventually replenished by contributions from the members concerned in the case of *special joint actions* or *ad hoc* coalitions). A special provision could be ratified by the member countries which would distinguish between the funding of *non-obligatory expenditure* in general and that related to *joint actions* involving only some members of the EU, limiting the powers of the European Parliament on the latter type of expenditure.

¹⁷Today there is no linkage between the Presidency of the EU and of WEU. The two organizations have different membership. Some propose to modify the Presidency of the EU. Today, the idea of electing a President of the EU seems less fashionable. Should it come back to the fore, however, it could be useful to consider the possibility of the President of the EU becoming the President of WEU. In practice, however, such a President will hold powers very similar to those of a *strong* Secretary-General of the Council and of the CFSP. Others suggest that the rotation among the EU Presidencies should slow down, to one year, as previously in WEU. In this case it may be considered also the idea that the EU Presidency should be held only by the *major* European countries (which are also members of WEU) while the other countries will hold one or two vice-presidencies, changing the nature of the Troika. The same decision could be applied in WEU. This proposal seems very complex to enact, but it may lead to the coincidence of the two organizations' presidencies.

A separate WEU budget will survive, at least until WEU becomes a full component or a *pillar* of the EU. Still, expenditure related to the *common European defence programmes and structure* proposed above could be considered a normal part of the European budget (under a WEU heading or title) and should be treated accordingly (and not as exceptional and non-obligatory), even if only (or mainly) WEU members contribute towards them. Meanwhile, a burden-sharing mechanism should be agreed upon by all EU and WEU members and those taking part in *joint actions*, including associated countries. The idea is that all member countries and the EU as such should recognize, in principle and in fact, that the CFSP, the CDP and the eventual CD are in the general interest of the EU, including those members that are not participating in them or that are not taking part in specific *joint actions*.

The question of democratic control of the CFSP and CDP

The role of the European Parliament should be clarified, even if it is likely that national parliaments will maintain their constitutional rights on defence matters. Consultation between those two levels could be established.

The WEU Parliamentary Assembly in its present form plays the limited role assigned to it by the modified Brussels Treaty. Moreover, its composition (its members are drawn from the members of the Parliamentary Assembly of the Council of Europe) does not reflect a clear linkage with those committees of the national parliaments dealing with defence and security policies. To improve the present situation, it could be decided to establish instead a *Common European Parliamentary Defence Committee* formed by representatives of the European Parliament, together with members of the committees of the various national parliaments dealing with security and defence issues. This decision would produce a useful linkage between the European and national parliaments on key political matters.

The existence of such a committee might defuse at least some national suspicions and resistance against a growing role of the European Parliament on foreign, security and defence policy matters. Thus, this committee could finally gain more budgetary and control powers than the present WEU Assembly, which could be reformed to resemble it.