

*Chaillot Papers*

- 38 -  
*February 2000*

CFSP, DEFENCE  
AND FLEXIBILITY

*Antonio Missiroli*

INSTITUT  
D'ETUDES  
DE SECURITE  
UNION DE L'EUROPE OCCIDENTALE



INSTITUTE  
FOR SECURITY  
STUDIES  
WESTERN EUROPEAN UNION

# **CFSP, defence and flexibility**

*Antonio Missiroli*

Antonio Missiroli is a research fellow at  
the Institute for Security Studies of WEU.

**Institute for Security Studies  
Western European Union**

**Paris - February 2000**



## **CHAILLOT PAPER 38**

*(A French translation of this paper is also available from the Institute)*

**The Institute for Security Studies of Western European Union**

**Director:** Nicole Gnesotto

© Institute for Security Studies of WEU 2000. All rights reserved. No part of this publication may be reproduced, stored in a retrieval system or transmitted in any form or by any means, electronic, mechanical, photo-copying, recording or otherwise without the prior permission of the Institute for Security Studies of WEU.

ISSN 1017-7566

# CONTENTS

<b>Preface</b>	v
<b>Summary</b>	vii
<b>Introduction: the challenge of diversity</b>	1
<b>From Maastricht to Amsterdam (1992-97)</b>	5
<b>WEU and the CFSP: challenges and responses</b>	16
<b>The road to Cologne – and beyond</b>	24
<b>Of clubs and <i>directoires</i> – and of possible ways ahead</b>	29
<b><i>E pluribus una?</i></b>	41
<b>Annexes</b>	47



## **PREFACE**

How can one reconcile the number, the political equality and the diversity of states? How can one get a Union whose membership is continually growing to work, knowing that the consensus rule, which prevails in particular in the second pillar, on Common Foreign and Security Policy, can very quickly become a recipe for common paralysis? In other words, does one have to demand that all member states be ready to act at the same time on everything, or should one arrange, in the institutional framework of the Treaty, for flexibility mechanisms that are themselves differentiated? That challenge, which was already apparent at the time of the previous enlargement of the European Union in 1995, is, following the decisions taken at the Helsinki Council meeting, on the way to becoming a major test of the effectiveness and legitimacy of all the European Union's future decisions.

For nearly a decade, various models and mechanisms have been put forward, but rarely accepted, for reconciling flexibility in commitments and the unity of European political integration. In particular in the case of CFSP and the common defence policy, everything remains to be done: the willingness of the European Union's Portuguese presidency to reopen the debate on enhanced cooperation at the IGC is in this respect a very important initiative.

This *Chaillot Paper* by Antonio Missiroli, who has been a research fellow at the Institute since December 1997, is the outcome of a series of seminars organised by the Institute on flexibility in the CFSP, its advantages and its drawbacks. On the eve of the opening of the IGC, these reflections, and the summary that the author presents of a decade of debate on hard cores and other forms of enhanced cooperation, constitute, in our view, a useful contribution to the discussion on the future of the European Union's security and defence policy.

**Nicole Gnesotto**

**Paris, February 2000**





## SUMMARY

While each of today's various groupings of EU states has its own (more or less developed) *acquis* – the EC proper, the euro-zone, Schengen – regarding security and defence Europe as such has no specific *acquis*. At the same time, exerting influence by acting collectively rather than individually has become a shared political imperative. On the one hand, nations are reluctant to relinquish power in foreign, and even more security and defence policy, so that the EU's CFSP remains essentially intergovernmental. On the other, if it is to be effective, the CFSP has to overcome the traditional 'logic of diversity'. To that end, the selective use of some 'flexibility' could significantly enhance the EU's international presence. Here, the concept is defined as a set of 'institutional rules whereby member states do not all have the same rights and obligations in certain policy areas'.

The debate on the management of diversity that had begun in the mid-1970s gathered new momentum after the signing of the Maastricht Treaty in 1992. Subsequently, in preparation for the Treaty's revision, the different possibilities and limits of the concept of differentiated integration within the EU – with special reference to the idea of 'enhanced cooperation' – were examined and mooted. In the end the Amsterdam Treaty endorsed three forms of flexibility: enabling clauses, case-by-case and pre-defined flexibility. It is arguable, however, that all will serve primarily as deterrents to boycotting by individual countries and to forming exclusive groupings rather than as ways of deepening integration among the willing and able, as originally envisaged.

WEU's modest operations to date did not call for a debate on flexibility or require constructive abstention. WEU provides mutual security guarantees, and it may also carry out the missions listed in the Treaty on European Union (TEU). To date, however, the EU has asked for very little of the support from WEU that is allowed for in the Treaty. Operation ALBA confirmed the preference of European countries for one-off *ad hoc* operational coalitions rather than more structured multilateral frameworks.

In autumn 1998 British Prime Minister Tony Blair's initiative on European defence triggered a chain of developments culminating in the December 1999 Helsinki EU Council Declaration strengthening European security and defence policy, which

deepened and widened the CFSP's scope. As a result, the EU is to take key decisions on the inclusion of WEU functions in the EU, the pooling of national defence capabilities and procurement. The asymmetry between member countries leads, however, back to the question of flexibility.

It is widely assumed that cooperation becomes more difficult as the number of parties involved grows. This has indirectly contributed to strengthening 'mini-lateralism' and 'club'-like practices, but these are seen by some as undermining multilateral forums, including the CFSP proper. The setting of convergence criteria, a device that proved quite successful in the case of EMU, could be applied to the CFSP as a way of fostering flexibility and bringing about a CESDP. These criteria could be e.g. wrapped in a 'common strategy', within which specific 'joint actions' could be implemented by sizeable coalitions of the willing and able. Meanwhile, flexibility has been and can continue to be tested also outside the TEU framework. Moreover, the forthcoming Intergovernmental Conference is likely to make recommendations also on the EU's security institutions. Much as most member states seem to have adopted a minimalist approach, it would be important to find means to strengthen budget solidarity, soften the unanimity rule and redefine the concept of 'majority'.

Any such improvement, however, should fit in a more coherent design for external relations, and for crisis management in particular. The latter should be able to make use of both military and non-military policy instruments, thus bridging the existing gaps between the different EU pillars. If it may take time to achieve a single 'Europe', in the medium term overlapping 'club' memberships can lead to a coincidence of core policies, core members and core institutions (without the core necessarily being 'hard'). Especially with the appointment of a WEU Secretary-General, High Representative for the CFSP and EU Council Secretary-General that are one and the same person, there is now scope for more visible leadership and better intra-institutional cooperation. In fact, Javier Solana may act as a catalyst for an effective CESDP and a more consistent external policy of the whole Union.

# CFSP, defence and flexibility

*Antonio Missiroli*

## INTRODUCTION: THE CHALLENGE OF DIVERSITY

At the beginning of the twenty-first century, we happen to have not one but many 'Europes'. We have the Europe of the single market, which encompasses the 15 member states, plus the European Economic Area (EU plus Norway, Iceland and Liechtenstein) and, increasingly so, the candidates for accession. We have the Europe of Economic and Monetary Union (EMU), which includes the 11 countries of the first 'wave' and the two of the new monetary system (Denmark and Greece) with, on the northern fringe, the 'opter-out' Britain and the 'stayer-out' Sweden. Furthermore, we have the Europe of 'Schengen', which covers the 15 minus the two (and a half) opters-out – Britain and Ireland, with Denmark as a possible 'opter-in' – plus, sooner rather than later, Iceland and Norway (through the Nordic passport union). And, finally, we have the Community as an international actor in its own right that manages its external relations – mainly via the Commission – through trade, aid, regional political dialogues and, of course, enlargement policy.

Each of these 'Europes' is linked to a specific regime and has its own *acquis*. To a certain extent, even the Common Foreign and Security Policy (CFSP) framework created with the Maastricht Treaty on European Union (TEU) has a record of procedures and a limited *acquis*, although it still falls short of meeting the expectations that preceded, accompanied and followed its inception. The most relevant case in point has been its failure to deal effectively with the dissolution of the Yugoslav Federation, but minor cases of internal disagreement, paralysis or cacophony have emerged also in relation to the Middle East and other policy areas. At any rate, the CFSP *acquis* is as much limited as it is uncontroversial – to the extent that for the applicant countries that started their accession negotiations in 1998 it was agreed, implemented and shelved without much ado in the few first months.

However, in the field of security and defence proper, while there certainly are many bodies (NATO, WEU, the Partnership for Peace programme, the Euro-Atlantic Partnership Council, let alone the OSCE), 'Europe' as such has no distinctive European regime nor any specific, tangible *acquis* to be incorporated by present or future members. If there is any, it is either very

weak and fragmented – as in the field of armaments cooperation – or mainly linked to NATO. For some time, in fact, it had seemed that Stanley Hoffmann's 30-year-old argument about the lasting 'logic of diversity' – as opposed to the 'logic of integration' – that allegedly affects common European endeavours in the domain of 'high politics' was being vindicated.<sup>1</sup>

Yet, in retrospect, it is arguable that the tendency to defect and/or go-it-alone has shrunk significantly, even on the part of the most assertive member states, and that the overall benefits of collective action are increasingly being acknowledged. The EU framework, in other words, has become an indispensable 'cover' for all partners: influence through Europe – rather than autonomy from Europe – is now the main political imperative. In turn, diversity has become, rather than a fatal 'logic', a permanent and growing challenge in that EC/EU membership has almost tripled (and will soon quadruple) since Hoffmann's essay was written.

The way in which 'Europe' has tried to overcome its diversities has much to do with institutions: most of the academic literature about European integration emphasises the 'spillover' effect of successful policy-making through common institutions. Such argument – *the* key argument liberal 'institutionalists' use against 'realists' – applies only partly to the CFSP. By comparison, the institutional set-up of the fledgling second 'pillar' is weak, and competence over the EU's external/foreign relations (and relevant policy tools) is dispersed across all 'pillars'. Moreover, in terms of bureaucratic politics it is only natural that national foreign ministries are reluctant to relinquish power and resources without retaining control over the policy agenda – hence the still distinctively intergovernmental nature of the CFSP. Finally, if to the 'civilian power' (self-) image of the EU<sup>2</sup> we add

---

<sup>1</sup>See Stanley Hoffmann, 'Obstinate or Obsolete? The Fate of the Nation-State and the Case of Western Europe', *Daedalus*, 3, 1966, pp. 862-915. For a reappraisal, see Stanley Hoffmann, 'Reflections on the Nation-State in Western Europe Today', *Journal of Common Market Studies*, 1982, 1, pp. 21-37.

<sup>2</sup>For the original notion of 'civilian power', see François Duchêne, 'The European Community and the Uncertainties of Interdependence', in Max Kohnstamm and Wolfgang Hager (eds.), *A Nation Writ Large? Foreign-policy Problems before the European Community* (London: Macmillan, 1973), esp. pp. 19-20. For an early criticism, see Hedley Bull, 'Civilian Power Europe: A Contradiction in Terms?', *Journal of Common Market Studies*, 1982, 1-2, pp. 149-170. For a recent reappraisal, see Hans Maull, 'Germany and Japan: The New Civilian Powers', *Foreign Affairs*, 5, 1990, esp. pp. 92-3, which clearly elaborates on Rosencrance's notion of the 'trading State'; and Richard Rosencrance, 'The European Union: A New Type of International Actor', in Jan Zielonka (ed.), *Paradoxes of European Foreign Policy* (The Hague: Kluwer, 1998), pp. 15-24. For a variation on the

the dimension of defence proper – for which not only is there no single regime or *acquis*, but even less any significant impact of the EC/EU as such on national policies<sup>3</sup> – the overall picture becomes even more complicated.

As regards the CFSP, in sum, the challenge of diversity is at the same time quantitative, functional, and political. Ultimately, however, it is also spatial in that it has to reconcile several ‘Europes’ – each with its own regime, *acquis*, and membership – and make them, if not fully overlapping, at least compatible and coordinated.<sup>4</sup> As a partial response to such difficulties, before and during the negotiations that led to the Amsterdam Treaty some analysts and policy-makers floated the idea of resorting to some form of ‘flexibility’ within the EU legal and institutional system in order to give to the CFSP, too, the necessary effectiveness and momentum, and to make ‘Europe’ a more respected international actor in its own right. As such, of course, the term ‘flexibility’ is rather vague and potentially misleading, in that it may cover a wide variety of options and prescriptions. For reasons of clarity and consistency, it will be used here as an ‘umbrella’ term for *institutional rules whereby member states do not all have the same rights and obligations in certain policy areas*.

The present paper will summarise the European debate on flexibility of the past decade, analyse the present state of play and draw some provisional conclusions coupled with some tentative policy recommendations. Accordingly, the following section deals with the discussions that preceded and accompanied the drafting of the Amsterdam Treaty, and also assesses the eventual outcome of the negotiations. The next section evaluates the

---

same theme, see Göran Therborn, ‘Europe in the 21<sup>st</sup> Century: The World’s Scandinavia’, *Irish Studies in International Affairs*, 8, 1997, pp. 21-34.

<sup>3</sup>For a first systematic analytical effort in this field of research – which still suffers from the rigid academic and scientific separation between European and strategic studies – see Jolyon Howorth and Anand Menon (eds.), *The European Union and National Defence Policy* (London: Routledge, 1997). For the notion of ‘regime’, see Stephen D. Krasner (ed.), *International Regimes* (Ithaca-New York: Cornell University Press, 1983).

<sup>4</sup>The academic literature on the CFSP is already huge. For its pre-history the reference book is Simon Nuttall, *European Political Cooperation* (Oxford: Clarendon Press, 1992). For a broad overview, see Elfriede Regelsberger, Philippe de Schouteete and Wolfgang Wessels (eds.), *Foreign Policy of the European Union: From EPC to CFSP and Beyond* (Boulder, CO: Lynne Rienner, 1997). For the main actors involved, see Christopher Hill (ed.), *The Actors in Europe’s Foreign Policy* (London: Routledge, 1996). Most recently, see Fraser Cameron, *The Foreign and Security Policy of the European Union: Past, Present and Future* (Sheffield: Sheffield Academic Press, 1999); Jean-Michel Dumond et Philippe Setton, *La politique étrangère et de sécurité commune* (Paris: la documentation française, 1999).

implications of the new provisions on flexibility in the light of the call for a strengthened CFSP, and WEU's record. The fourth section dwells upon the latest developments in European security and defence policy and on *their* impact on the flexibility debate. The following section puts forward some ideas for implementing flexibility through (and along) the existing institutional channels, and the last section puts them in the wider context of the EU's external policy, stressing the need for more inter- and intra-institutional coordination and coherence. The underlying argument is that a selective insertion and a limited use of some institutional flexibility in the CFSP machinery – especially now that the EU has decided to take its defence dimension seriously – may bring significant benefits to the Union's international presence and 'identity' without diluting or undermining internal cohesion and mutual solidarity.<sup>5</sup>

---

<sup>5</sup>For a much more sceptical view, see Joanne Wright, 'Trusting Flexible Friends: The Dangers of Flexibility in NATO and the West European Union/European Union', *Contemporary Security Policy*, 20, 1999, 1, pp. 111-29.

## FROM MAASTRICHT TO AMSTERDAM (1992-97)

The debate about how, institutionally, to reconcile and manage diversity within the European Community/Union (EC/EU) in general – with a view to the dual challenge of ‘deepening’ and ‘widening’ – is hardly new. From the publication of the Tindemans Report in 1975 until the early 1990s, though, the supply of quality literature and convincing arguments on the subject was minimal and occasional.<sup>6</sup>

The signing of the Maastricht Treaty marked a turning point, in that it brought in problematic policy areas with a record of selective involvement, thus admitting the possibility of regimes not being universal. Once the TEU had been ratified and the German CDU/CSU parliamentary group had released its controversial paper ‘Reflections on European Policy’ in September 1994, the discussion took off again, leading to an avalanche of new visions and concepts across the Continent.<sup>7</sup> Europe, it was suggested, should go multi-speed and aim for differentiated integration; it should become two-tier, multi-track, variable-geometry, or *à la carte*; it should be built around a hard core, or take the form of concentric circles. Scholars and political leaders competed in the coinage of terms that clearly entailed different visions and goals, which in the end made the whole discussion

---

<sup>6</sup>Notable exceptions were Eberhard Grabitz (ed.), *Abgestufte Integration. Eine Alternative zur herkömmlichen Integrationskonzept* (Kehl am Rhein: Engel, 1984); Claus-Dieter Ehlermann, ‘How Flexible is Community Law? An Unusual Approach to the Concept of “Two Speeds”’, *Michigan Law Review*, 82, 1984, 2, pp. 1274-93; and Helen Wallace (with Adam Riley), ‘Europe: The Challenge of Diversity’, *Chatham House Papers*, 29 (London: Routledge, 1985). A famous lecture given by Ralf Dahrendorf, *A Third Europe?*, Third Jean Monnet Lecture (Florence: European University Institute, 1979) was also instrumental in promoting a distinctively British approach to ‘flexibility’, later associated with a specific vision of ‘subsidiarity’ and with the idea of a Europe *à la carte*. See Pierre Maillet and Dario Velo, *L’Europe à Géométrie Variable* (Paris: L’Harmattan, 1994).

<sup>7</sup>See CDU/CSU-Fraktion des deutschen Bundestages, ‘Überlegungen zur europäischen Politik. Vorschläge für eine Reform der Europäischen Union’, *CDU-CSU Dokumentation*, January 1995. The paper explicitly mentioned five EU states only – France, Germany and the Benelux countries, i.e. the founding members of the EC minus Italy – as likely/desirable participants in the envisaged *Kerneuropa*, thus triggering hostile reactions across Europe and connecting the very idea of deeper integration with the prospect of predetermined exclusion. See also Christian Deubner, *Deutsche Europapolitik. Von Maastricht nach Kerneuropa?* (Baden-Baden: Nomos, 1995); Josef Janning and Werner Weidenfeld, ‘La nouvelle Europe: stratégies d’intégration différenciée’, *Politique Etrangère*, 1996, 3, pp. 521-36.

fairly confusing.<sup>8</sup> Yet it is clear that the implementation of EMU as laid down in the Maastricht Treaty represented an important precedent for any future ‘flexibility’ arrangement, in that it emphasised capability (as measured against unanimously agreed convergence criteria), willingness and a detailed timetable. Indeed, EMU has been more or less explicitly the cornerstone – or rather the underlying term of reference – of any such controversy or discussion, along with the institutional implications of enlarging the EU eastwards, ever since.<sup>9</sup> It goes without saying that a Union of 20 to 30 full members would entail a maximum degree of inner diversity and would hardly be manageable with decision-making procedures that, at best, were designed for a Community of six to ten member states.<sup>10</sup>

The ‘Reflection Group’ set up in June 1995 to prepare the Intergovernmental Conference (IGC) that was called to revise the Maastricht Treaty published its report in December 1995, at the end of the Spanish EU presidency. Although the Group’s progress report, too, displayed a certain inconsistency in the use of terminology related to differentiated integration within the EU, it outlined a clear vision of both the limits and the future possibilities of this concept. In essence the Group, chaired by Carlos Westendorp, maintained that ‘flexibility’ provisions could

---

<sup>8</sup>For a detailed overview of the early stage of the discussion, see Deirdre Curtin, ‘The Shaping of a European Constitution and the 1996 IGC: “Flexibility” as a Key Paradigm’, *Aussenwirtschaft*, 50, 1995, pp. 237-52; Alexander C.-G. Stubb, ‘A Categorisation of Differentiated Integration’, *Journal of Common Market Studies*, June 1996, pp. 283-95; Frank Vibert, *Structured Flexibility in the European Union* (London: European Forum, 1996); Claus Giering, ‘Vertiefung durch Differenzierung – Flexibilisierungskonzepte in der aktuellen Reformdebatte’, *Integration*, 2, 1997, pp. 72-8.

<sup>9</sup>See CEPR (ed.), ‘Flexible Integration: Towards a More Effective and Democratic Europe’, *Monitoring European Integration*, 6, November 1995; Claus-Dieter Ehlermann, ‘Différenciation accrue ou uniformité renforcée?’, *Revue du Marché Unique Européen*, 3, 1995, pp. 191-218; Bertelsmann Foundation (ed.), *The New Europe – Strategies for Differentiated Integration* (Gütersloh: Bertelsmann Foundation Publishers, 1997), esp. pp. 42-9; Alexander C.-G. Stubb, ‘The 1996 IGC and the Management of Flexible Integration’, *Journal of European Public Policy*, 1, 1997, pp. 37-55; Françoise de la Serre and Helen Wallace, ‘Les coopérations renforcées : une fausse bonne idée?’, *Etudes et Recherches*, Notre Europe, Paris, 2, 1997.

<sup>10</sup>See Françoise de la Serre, ‘L’élargissement aux PECO: quelle différenciation?’, *Revue du Marché Commun*, November 1996; Peter van Ham, ‘Central Europe and the EU’s Intergovernmental Conference: The Dialectics of Enlargement’, *Security Dialogue*, Winter 1997, pp. 71-82; Gunilla Herolf (ed.), *EU Enlargement and Flexibility* (Stockholm: The Swedish Institute of International Affairs, 1998); James Sperling (ed.), *Two Tiers or Two Speeds? The European Security Order and the Enlargement of the European Union and NATO* (Manchester, New York: Manchester University Press, 1999).



be introduced if the following criteria were met: (a) differentiation should only be allowed as a last resort, and temporarily; (b) those who are willing and able should not be excluded from participation in a given action or future policy; and (c) when allowing differentiation, the *acquis communautaire* and the existing single institutional framework should be preserved and respected. The report also pointed out that the degree of differentiation admissible varied according to the pillar in question, and also between the present member states and those acceding in the next enlargement(s). In other words, while derogation would not be allowed in the first pillar (the European Community) if it jeopardised the internal market, in the second (CFSP) and some third-pillar (justice and home affairs) issues a greater degree of differentiation may be possible. Other options and formulas were not addressed explicitly by the Group – which may help explain the invitation to do so made by Chancellor Kohl and President Chirac in an open letter in December 1995.

The Franco-German move also influenced the debate by introducing a new term – enhanced cooperation (*coopération renforcée*) – into the political vocabulary of the IGC, and by suggesting that its insertion into the revised TEU should be considered. From then on, therefore, the political and academic debate was centred mainly on ‘enhanced cooperation’, and coupled – again, a little confusingly – with ‘flexibility’. Indeed, each term concealed different, even divergent, views on the future of European integration. One of these – a more centralising view – considered enhanced cooperation as a half-way house towards bringing more competencies and activities within the EU, and as a way of making greater use of Community procedures and institutions. The other – a more decentralist view – assumed that Europe could best develop around a limited core group of activities while in other areas allowing different groupings of member states ‘flexibly’ to pursue different approaches and to use different procedures and institutions suited to the policy in question. As a consequence of such terminological ambiguity – which was partly inevitable (and perhaps necessary at that stage of the IGC negotiations) yet partly unhelpful to the ensuing discussion – the German chancellor, the French leaders and the British prime minister all endorsed flexibility, although each meant something different by it.<sup>11</sup>

---

<sup>11</sup>See note 7 for the CDU/CSU Paper, and John Major, *William and Mary Lecture*, Leiden, 7 September 1994, which is usually considered as the political platform for a *Europe à la carte* (for an updated formulation, see John Maples, ‘Flexibility Should be the Rule in Europe’, *Financial Times*, 8 November, 1999, p. 15). See also the then French

However ambiguous its *acquis linguistique*, the IGC was eventually set in motion in Turin, in late March 1996, and continued through the Irish and Dutch presidencies before coming to an end at the European Council in Amsterdam, in June 1997, immediately after the British (and French) parliamentary elections. As mentioned above, the political impulse was established in two joint Franco-German letters published before the IGC (i.e. the Kohl-Chirac letter of 7 December 1995, and that of Foreign Ministers Kinkel and de Charette of 27 February 1996). The European Council of Turin provided the mandate for examining enhanced cooperation/flexibility in the IGC, and it was clear from the beginning that it would be one of the most difficult and sensitive areas of discussion. Throughout the Conference, a total of twenty-two documents were submitted on the matter: apart from those released by the successive presidencies, France and Germany (jointly), Italy, Portugal and Greece (separately) all submitted their own texts and proposals. In addition, a number of ‘non-papers’, such as the ‘Ten Commandments of Flexible Integration’ by the Finnish delegation, were circulated among the participants.

Without dwelling on details and technicalities, suffice it here to say that the evolution of the discussion was typical of any new concept developed in any intergovernmental conference: first, the idea was launched; second, the concept was defined; third, a draft article was provided; and, finally, the latter was subjected to interpretation and negotiations. In particular, the Italian presidency’s report on the state of play raised the idea of a general flexibility clause supported by specific flexibility clauses for each pillar (June 1996).

The move on the general clause was probably also dictated, at least partly, by the obstructive behaviour adopted at the EU level, in the spring of 1996, by the United Kingdom in retaliation for the embargo on British beef issued by the Commission to prevent ‘mad cow’ disease from spreading further. And, of course, Greece’s 1992-95 blocking attitude *vis-à-vis* recognition of the FYR of Macedonia – much as the motivations were quite different<sup>12</sup> –

---

Prime Minister Edouard Balladur’s interview (*Le Figaro*, 30 August 1994) and article (*Le Monde*, 30 November, 1994), in which he referred to a Europe of ‘concentric circles’ – a common pillar for economic policy, political cooperation and common borders, and *solidarités renforcées* in other areas such as EMU and defence, plus a third circle for applicants and future members.

<sup>12</sup>See Stelios Stavridis, ‘The Common Foreign and Security Policy of the European Union: Why Institutional Arrangements Are Not Enough’, in Howard Machin et al. (eds.), *New Challenges in the European Union: Policies and Policy-Making* (Aldershot:

played a role, too. Flexibility, in other words, was also seen as the only way out of the political and institutional paralysis that a single government was able to generate.

At any rate, in the negotiations that followed different options were floated on the mechanisms designed to ‘trigger’ flexibility in each pillar: for instance, qualified majority voting (QMV) in the first, unanimity in the second, both – alternatively – in the third. The Franco-German memorandum of 17 October 1996 stressed that no member state should have a veto right on the launching of enhanced cooperation initiatives. In January 1997 Italy submitted a draft article for the second pillar, whereby all forms of flexibility related to defence required the consent of all WEU members.<sup>13</sup> Later on, though, the Dutch presidency voiced doubts as to the necessity of an enabling clause in the second pillar, and in any case the final draft prepared for the Amsterdam summit envisaged unanimity as the necessary trigger mechanism, whereas QMV was deemed sufficient for the first and third pillars. This turned out to be an important warning signal: in the final, hectic stage of the Amsterdam negotiations the entire flexibility clause in the second pillar literally disappeared from the table and was dropped in favour of ‘constructive abstention’ only.

Why so? By and large, it can be argued that the arrival on the European stage of a new British government that was apparently less hostile to constructive cooperation with its EU partners – along with the consolidation of a less inward-looking political leadership in Greece – contributed to laying the case to rest and to muting the call for a ‘strong’ general flexibility clause. However, it can also be argued that, in the end, no European government was in reality in favour of a specific flexibility clause for the CFSP proper: the smaller countries, in general, for fear of being outvoted, Italy and Spain for fear of being excluded, Britain for reasons of principle and tradition. Yet even Germany and France did not insist on that point:

---

Dartmouth, 1997), pp. 87-122; Sophia Clément, ‘Les relations gréco-macédoniennes : de l’affrontement au rapprochement’, *Politique Etrangère*, 63, 1998, 2, pp. 389-99. See also Alexander Kazamias, ‘The Quest for Modernisation in Greek Foreign Policy and its Limitations’, *Mediterranean Politics*, 1997, 2, pp. 71-94.

<sup>13</sup>More specifically, Italy proposed that QMV should also be the rule for setting general foreign policy guidelines, *supplemented* by the use of ‘constructive abstention’. If these changes were to be accepted by the IGC, Italy saw no need for a flexibility option, which had rather to be considered – consistently with Italy’s overall vision – as a last resort. As such, however, it could be applied to defence matters, *provided participating States included all WEU members*. Conversely, the Portuguese proposal argued – as far as the second pillar was concerned – that enhanced cooperation should apply only to the implementation of measures decided unanimously by the Council.

presumably, the former did not see its urgency after all (and did see, instead, other ways to bring about enhanced cooperation), while the latter was worried that it might end up infringing a country's right to say 'no' on matters of life and death. Finally, it seems that the negotiators eventually agreed that the specific nature of the CFSP, especially when implemented as case-by-case crisis management, made a specific 'flexibility' clause unnecessary, if not outright counterproductive.

In the end, therefore, the Amsterdam Treaty endorsed three basic forms of flexibility:

- *enabling clauses*, i.e. the mode of integration which enables willing and able member states to pursue further integration (defined as 'closer cooperation'), subject to certain conditions set out in the treaties, in a number of policy areas within the institutional framework of the EU. Examples include a general flexibility clause to be inserted as a new title to the common provisions of the TEU (Title VII, Arts. 43-5) as well as clauses specific to the first pillar (Art. 11 consol. TEC) and the third pillar (Art. 40 consol. TEU);

- *case-by-case flexibility*, i.e. the mode of integration which allows a member state the possibility of abstaining from voting on a decision by formally declaring that it will not contribute to the decision, whilst at the same time accepting that the decision commits the entire EU. This so-called 'constructive abstention', therefore, is primarily a decision-making mechanism and only secondarily a trigger mechanism for flexibility. As already mentioned, it applies only to the second pillar (Art. 23 consol. TEU) and was designed to compensate for the eleventh-hour disappearance of the specific flexibility clause;

- *pre-defined flexibility*, i.e. the mode of integration that covers a specific field, is pre-defined in all its elements (including its objective and scope), and is automatically applicable as soon as the Treaty enters into force. It is primarily established in protocols and declarations related to the third pillar, and affects specifically and explicitly Denmark – which is inside the Schengen 'space' but with an opt-out for the rest of the third pillar – the United Kingdom and the Republic of Ireland, both of which are outside Schengen but with an opt-in for the rest of the third pillar.

The first form basically reproduces the terms of the Reflection Group report (flexibility to be used only as a 'last resort'), prescribes that 'at least a majority of member states' should participate, but entails also some key constraining conditions: that cooperation should 'not affect the *acquis*

*communautaire*' nor 'the competences, rights, obligations and interests of those member states which do not participate' (Art. 43 consol. TEU). All this led some advocates of enhanced cooperation to complain that a 'strait-jacket' had been imposed on any future grouping of the willing and able: launched as a daring concept, meant to allow an avant-garde of a few pioneering member states to further 'deepen' their integration with the (qualified) blessing of the others, it had turned into a system of guarantees of the majority.<sup>14</sup>

The third form of flexibility is slightly more workable, albeit with similar limitations, in that it basically reflects the way in which the Schengen *acquis* has been developed in the first place, i.e. by 'import' rather than 'in-house': it is also the only form of flexibility that may draw upon the resources of the EU budget in the first instance (Art. 41 consol. TEU).<sup>15</sup>

---

<sup>14</sup>See Josef Janning, 'Dynamik in der Zwangsjacke – Flexibilität in der Europäischen Union nach Amsterdam', *Integration*, 4/1997, pp. 285-91. For a reconstruction of the IGC and an assessment, see Geoffrey Edwards and Eric Philippart, 'Flexibility and the Treaty of Amsterdam: Europe's New Byzantium', in 'Flexibility and the Treaty of Amsterdam: Europe's New Byzantium?' *CELS Occasional Papers 3* (Cambridge: Centre for European Legal Studies, 1997), pp. 1-46; Andrew Duff (ed.), *The Treaty of Amsterdam: Text and Commentary* (London: Federal Trust, 1997), pp. 181-97; Monica den Boer, Alain Guggenbuehl and Sophie Vanhoonacker (eds.), *Coping with Flexibility and Legitimacy after Amsterdam* (Maastricht: European Institute of Public Administration, 1998); Wolfgang Wessels, 'Flexibility, Differentiation and Closer Cooperation: The Amsterdam Provisions in Light of the Tindemans Report', in Martin Westlake (ed.), *The European Union beyond Amsterdam: New Concepts of European Integration* (London: Routledge, 1998), pp. 77-98; the contributions by Helmut Kortenberg ('Closer Cooperation in the Treaty of Amsterdam') and Giorgio Gaja ('How Flexible is Flexibility under the Amsterdam Treaty?') in *Common Market Law Review*, 35, 1998, 4, pp. 833-70; Eric Philippart, Geoffrey Edwards, 'The Provisions on Closer Cooperation in the Treaty of Amsterdam – The Politics of Flexibility in the European Union', *Journal of Common Market Studies*, 37, 1999, 1, pp. 87-108; Françoise de la Serre, 'Une Europe ou plusieurs?', *Politique Etrangère*, 64, Spring 1999, pp. 21-34; Christian Deubner, *Harnessing Differentiation in the EU: Flexibility after Amsterdam – A Report on Hearings with Parliamentarians and Officials in Seven European Capitals* (Ebenhausen: SWP- S 430, July 1999); Kerstin Junge, *Flexibility, Enhanced Cooperation and the Treaty of Amsterdam* (London: Kogan Page, 1999).

<sup>15</sup>See the contributions by Joris Demmink, Gilles de Kerchove and Jörg Monar, in Monica den Boer, Alain Guggenbuehl and Sophie Vanhoonacker (eds.), op. cit. in note 14, pp. 193 ff., and Jörg Monar, 'Flexibility and Closer Cooperation in an Emerging European Migration Policy: Opportunities and Risks', *Laboratorio CeSPI*, 01, Rome, October 1999. More generally, see also Didier Bigo, 'L'Europe de la sécurité intérieure: penser autrement la sécurité', in Anne-Marie Le Gloannec (ed.), *Entre Union et nations. L'Etat en Europe* (Paris: Presses de Sciences Po, 1998), pp. 55-90.

By contrast, the second form dramatically shows the limits of institutional provisions in tackling issues and policy areas where fundamental disagreement persists among member states – for instance about the political responsibilities that should be attributed to the EU, and about the future of European defence and how it should be configured with respect to NATO – and where incentives for enhanced cooperation are either comparatively low (because other organisations already do the same job more effectively) or unevenly distributed between security ‘providers’ and ‘consumers’. Further evidence of that was offered by the *de facto* postponement, at Amsterdam, of the decision over the integration of WEU into the EU.<sup>16</sup>

Finally, common to *all* forms of flexibility inserted in the TEU – general as well as pillar-specific – is the more or less explicit reference to ‘important and stated reasons of national policy’ as the means by which single member states may prevent the Council from triggering ‘closer cooperation’ through QMV (in the CFSP framework, it applies to joint actions and common positions). Many analysts and commentators have seen in this provision – which apparently was inserted in the text (Arts. 23 and 40 consol. TEU) at the eleventh hour, on Britain’s insistence, as a sort of ‘emergency brake’ – the re-emergence of the (in)famous ‘Luxembourg compromise’ of 1966, whereby every single EU member potentially wields a veto power. On the one hand, it is certainly correct to say that it paves the way for obstructive actions and occasional vetoes (‘important’ is even less than ‘vital’ after all), thus making flexibility even more difficult to trigger. On the other hand, if

---

<sup>16</sup>For overall assessments, see Elfriede Regelsberger, Mathias Jopp, ‘Und sie bewegt sich doch! Die gemeinsame Aussen- und Sicherheitspolitik nach den Bestimmungen des Amsterdamer Vertrages’, *Integration*, 4/1997, pp. 255-63; Jörg Monar, ‘The European Union’s Foreign Affairs System after the Treaty of Amsterdam: A “Strengthened Capacity for External Action”?’’, *European Foreign Affairs Review*, 2, 1997, pp. 413-36; Philippe de Schoutheete, ‘L’avenir de l’Union Européenne’, *Politique Étrangère*, 3/1997, pp. 263-77; Guido Lenzi, ‘European Security after Amsterdam’, *CFSP-Forum*, 3, 1997, pp. 5-7; Groupe d’Experts à haut niveau sur la PESC, *La politique extérieure et de sécurité de l’Europe à l’horizon 2000: Appréciation sur le Traité d’Amsterdam* (Brussels: 20 October 1997); Philip H. Gordon, ‘Europe’s Uncommon Foreign Policy’, *International Security*, Winter 1997/98, pp. 74-100; Franco Algeri, ‘Die Reform der GASP – Anleitung zu begrenztem gemeinsamen Handeln’, in Werner Weidenfeld (ed.), *Amsterdam in der Analyse* (Gütersloh: Verlag Bertelsmann Stiftung, 1998), pp. 89-120; Nicole Gnesotto, ‘Défense européenne et partenariat atlantique’, in Françoise de la Serre and Christian Lequesne (eds.), *Quelle Union pour quelle Europe? L’après-traité d’Amsterdam* (Brussels: Editions Complexe, 1998), pp. 67-95; Eric Remacle, ‘La politique étrangère au-delà de la PESC’, in Mario Telò and Paul Magnette (eds.), *De Maastricht à Amsterdam. L’Europe et son nouveau traité* (Brussels: Editions Complexe, 1998), pp. 183-207.

the ‘importance’ of the reasons is difficult to assess precisely, it has to be ‘stated’ and articulated publicly and explicitly, and it does not stop the decision-making process, in that the same Council may – by qualified majority – ‘request that the matter be referred to the European Council for decision by unanimity’. In other words, even though the original Franco-German demand has not been met, the political costs of raising a national veto on enhanced cooperation are quite high, especially if only one country objects and keeps doing so throughout the entire institutional process. By contrast, under the so-called Luxembourg compromise – which was never written down in the Treaties – claiming a ‘vital’ national interest was deemed sufficient to block any initiative or decision. Anyway, it looks unlikely that a majority of member states would initiate the procedure leading to ‘closer cooperation’ on a given policy without a reasonable hope of getting it through, presumably by making concessions to the recalcitrant state(s), especially if the national interests at stake are not really ‘vital’.

In sum, it seems fair to argue that, similarly to QMV as such, all these flexibility provisions will serve primarily as institutional deterrents – against political boycott by a single country as well as against the formalisation of exclusive *directoires* – rather than as devices to deepen integration among those countries that are more willing and able to do so. The general budgetary restrictions enshrined in Art. 44.2 consol. TEU – whereby ‘expenditure resulting from implementation of the cooperation, other than administrative costs entailed for the institutions, shall be borne by the participating member states’ unless the Council decides (unanimously) otherwise – seem to reinforce the argument, although they do not apply to ‘closer cooperation’ in the third pillar.

As for the CFSP proper, the only apparent loophole for flexibility left in the Amsterdam Treaty, as already mentioned, is the ‘constructive abstention’ clause (Art. 23 consol. TEU), in itself a rather ambivalent device in that its main emphasis is on non-participation and case-by-case opting out. As a matter of fact, it should be rather considered as a voting system, along with the limited provisions for QMV enshrined, ‘by derogation’, in the same Art. 23.2. If the logic driving the IGC negotiators in weakening the unanimity principle was to have *either* QMV *or* ‘enhanced cooperation’, here there is neither, at least at the key junctures of the decision-making process: there is only a device for silent defection. In fact, much as it makes good sense that a reluctant member state may simply refrain from action without blocking a sizeable majority of the others, how far can such a ‘consensus minus X’ formula be stretched without undermining the credibility of the decision and its implementation?

Problems may also arise concerning both the quantity and quality of the abstentions. On the one hand, if the abstaining countries represent more than one third of the 'weighted' votes in the Council, the decision is not adopted anyhow. On the other hand, *who* abstains on *what* decision is far from irrelevant, especially on 'decisions having military or defence implications', as stated in Art. 23 consol. TEU. In this domain, some countries are definitely more 'equal' than others: for instance, Ireland's or Austria's abstention would have a different impact from France's or Britain's, but geographical proximity to a critical area, historical ties and cultural traditions may also play an important role.

Besides, it will become increasingly difficult to achieve unanimous approval and commitment by 15-plus member states to carry out such diverse missions as those now also explicitly envisaged by the Amsterdam Treaty (Art. 17.2 consol. TEU). They entail a wide range of possible operations, namely 'humanitarian and rescue tasks, peacekeeping tasks and tasks of combat forces in crisis management, including peacemaking', thus covering both the first and the second 'generation' of UN peacekeeping: that is, those missions undertaken under chapter VI of the UN Charter (interposition between parties after a cease-fire or a peace deal, i.e. 'blue-helmet' Cyprus-type operations), and those humanitarian, peace-enforcement missions undertaken under chapter VII of the UN Charter, which may involve the use of force (e.g. Bosnia, Somalia, Rwanda, Haiti, Albania). Interestingly, and perhaps typically, the former have seen a strong participation of neutral, non-aligned countries (Austria and the Nordics) – and it is worth noting that the insertion of those tasks in the Amsterdam Treaty was jointly proposed by Sweden and Finland – whereas the latter have often been initiated and run by the United States and/or by the main European NATO countries. Yet it looks increasingly likely that future missions involving European forces will rather be 'chapter VI and a half'-type: peace support may easily escalate to situations of war-fighting, and peacekeepers will therefore have to be trained for the full range of military operations. At any rate, if this may well be a case of 'constructive ambiguity', it is not going to make consensus-building on the future scope of the CFSP any easier, especially if there is no shared reading of the requirements and implications of those tasks.

Finally, the abstention clause may have a much less constructive impact if it leads a country to abstain for purely financial reasons. The costs of missions approved through 'constructive abstention' will be borne by the participating countries in accordance with their GDP, and not by the Community budget, unless the Council decides otherwise. All this may pave



the way for systematic ‘free-riding’ and may occasionally turn out to be ‘destructive’, rather than ‘constructive’, for CFSP.<sup>17</sup> It is therefore legitimate to wonder when and how – if ever – such a procedure will be used.

---

<sup>17</sup>So, e.g., Simon Nuttall, ‘The CFSP Provisions of the Amsterdam Treaty: An Exercise in Collusive Ambiguity’, *CFSP-Forum*, 3, 1997, pp. 1-3.

## WEU AND THE CFSP: CHALLENGES AND RESPONSES

It may be useful, at this stage, to shift the focus of analysis onto all the European institutions (and actions) related to the CFSP, starting with the Western European Union (WEU), which has traditionally personified, for good or ill, consensus on defence policy among EC/EU members.

To begin with, the transfer of ‘constructive abstention’ to the WEU treaty or, rather, to WEU practice – as suggested by some WEU member states, most vocally by France, in the wake of Amsterdam – would probably generate similar problems to the ones sketched above. However, it would presumably concern only the ten WEU full members, thus making its use at the same time less likely (more homogeneity) and more dangerous (less credibility).<sup>18</sup> Moreover, it would make little sense and solve very little if applied to the whole WEU ‘extended family’ of 28. In fact, WEU has to a certain extent already become a multi-tier organisation: since 1995, apart from the core group of ten full (both EU and NATO) members, it has acquired successive ‘circles’ of companions – Associate Members (NATO-only Iceland, Norway, Turkey and, now, also the Czech Republic, Hungary and Poland), Observers (Denmark plus EU-only Austria, Finland, Ireland and Sweden), and Associate Partners (the Central European EU candidates that are not NATO members) – but it increasingly works either at 21 or 28 (at 21, obviously, when matters related to EU and NATO are addressed). In short, WEU has widened before – and without – deepening.

Furthermore, the missions that WEU has carried out to date – i.e. on the eve of the expected absorption of its functions by the EU – have been particularly low-key, low-risk and low-cost. Militarily speaking, after three decades spent in a sort of ‘cryogenic’ state, WEU only acquired some significance in 1987-88 through its use as a mechanism to deploy a comprehensive mine countermeasure force in the Persian Gulf during the

---

<sup>18</sup>Actually, the French proposal – as put forward by Prime Minister Lionel Jospin in his September 1997 address to the IHEDN – did not aim at a modification of the Brussels Treaty (1948), whose Art. VIII already envisages non-unanimous decisions, albeit indirectly (‘The Council shall decide by unanimous vote questions for which *no other voting procedure has been or may be agreed*’ (emphasis added) ). Moreover, France – backed by some other WEU members – only aimed at applying such ‘*consensus aménagé*’ to non-Art. V, ‘Petersberg-type’ missions. No formal decision has ever been taken on the matter. The WEU ministerial meeting held in November 1997 in Erfurt, however, emphasised the need for easing consensus-building inside the organisation, if necessary also by exempting some member/associate States from financially contributing to a specific action that they would be willing to support politically.

Iran-Iraq war, thus bypassing the geographical constraints on ‘out-of-area’ operations that would have applied to any NATO force. A second operational involvement occurred in the 1990-91 Gulf War: a meeting of WEU chiefs of defence staff – the first in 36 years – was held in Paris with the aim of coordinating subsequent naval operations to enforce the embargo against Iraq, in accordance with the decision of the UN Security Council. Finally, since 1992, WEU has been involved in the enforcement of the UN embargo on former Yugoslavia, first in the Adriatic Sea – through operation ‘SHARP GUARD’, undertaken jointly with NATO – then along the river Danube, by assisting Bulgaria, Hungary and Romania, in cooperation with the Organisation for Security and Cooperation in Europe (OSCE).

On the whole, however, the record is quite modest: WEU has never been given any military forces under its direct command, and has remained dependent on NATO for surveillance, intelligence gathering and long-range transport: the bilateral arrangements painfully negotiated since 1994 – which have given WEU the possibility to ‘borrow’ NATO assets for non-Art. 5/V operations (thus making WEU a *potential* ‘interface’ between NATO and the EU, yet without granting it any automatic access) – only prove this point. So far, therefore, there has been no need to resort to any form of abstention, nor to hold a real debate on any form of flexibility. At the same time, WEU’s ‘constitutional’ arrangements already include a dual system of guarantees and potential commitments: the inner circle of ten full members of both NATO and EU clearly entails ‘hard’ mutual security guarantees (Art. V of the modified Brussels Treaty) and has stringent defence implications, although the general understanding is that collective defence is to be implemented through NATO anyway (Art. IV). The outer circle gradually encompasses the whole company of 28 and, irrespective of present and/or future membership of the EU and NATO, is already potentially available to carry out non-Art. V, ‘Petersberg-type’ missions, as those now enshrined in Art. 17 *consol. TEU* were originally defined.<sup>19</sup>

---

<sup>19</sup>Beyond the initial group of seven signatories of the WEU Treaty (1954), Spain and Portugal became full members in 1990, Greece in 1995: such status is *not* defined in the Treaty, yet it is commonly assumed (the so-called ‘Cahen Doctrine’, after the 1985-89 WEU Secretary-General, the Belgian Alfred Cahen) that only members of both the EU and NATO are entitled to it. Associate Members (who contribute to the WEU budget) and Observers (who do not) were introduced in 1992, with the Petersberg Declaration, which also gave the first definition of the new missions now incorporated in the TEU. Associate Partners (all the signatories of Europe Agreements with the EU) were introduced in 1994, with the Kirchberg Declaration. On WEU in general, see Patrick van Ackere, *L’Union de l’Europe Occidentale* (Paris: PUF, 1995); Anne Deighton (ed.), *Western European Union*

As regards the EU/WEU relationship in particular, Art. J.4 of the Maastricht Treaty referred to ‘the eventual framing of a common defence policy, which might in time lead to a common defence’, and looked to WEU as the institution which, as ‘an integral part of the development’ of the EU, could be ‘requested . . . to implement decisions and actions of the Union which have defence implications’. Very little use has been made of this provision: actually, the ‘click-in’ device of the TEU has been put into effect on only two occasions – in November 1996, when the EU called on WEU for the possible organisation of a humanitarian operation (which in the end did not take place) in the Great Lakes region of Africa, and between September and November 1998. In fact, the EU Council has asked for WEU support three times, namely in:

- planning international police operations to assist the Albanian authorities (Council decision, 22 September 1998, followed by a more operational one on 5 March 1999),
- organising a de-mining operation in Croatia (Council decision, 9 November 1998), and
- monitoring the situation in Kosovo through the imagery provided by the WEU Satellite Centre (Council decision, 13 November 1998).

The policing operation in the EU-administered city of Mostar, in former Yugoslavia, was carried out by WEU (summer 1994-autumn 1996) simply on the basis of a bilateral memorandum of understanding with the EU signed on 5 July 1994, although within the framework of a CFSP ‘joint action’ decided by the EU Council and with the financial support of the PHARE programme.<sup>20</sup>

---

*1954-1997: Defence, Security, Integration* (Oxford: St Antony’s College, 1997); Philip H. Gordon, ‘Does the WEU have a Role?’, *The Washington Quarterly*, Winter 1997, pp. 125-40; G. Wyn Reese, *The Western European Union at the Crossroads: Between Transatlantic Solidarity and European Integration* (Boulder, CO: Westview Press, 1998); André Dumoulin, Eric Remacle, *L’Union de l’Europe Occidentale – Phénix de la défense européenne* (Brussels: Bruylant, 1998); Joseph I. Coffey, ‘WEU After the Second Maastricht’, in Pierre-Henri Laurent and Marc Maresceau (eds.), *The State of the European Union*, vol. IV, *Deepening and Widening* (Boulder, CO: Lynne Rienner, 1998), pp. 113-32; and Guido Lenzi (ed.), *WEU at 50* (Paris: Institute for Security Studies of WEU, 1998).

<sup>20</sup>Actually, the EU Council did ‘request’ WEU to examine the support it could give to the organisation of a police force in Mostar and to the improvement of certain logistical functions, in particular in the medical field, on 5 October 1993, i.e. a few weeks *before* the entry into force of the Maastricht Treaty – and the request had no direct ‘military and defence implications’ anyway. See Willem F. van Eekelen, *Debating European Security*

Moreover, the fact that the three latest EU partners (Austria, Finland and Sweden) are all militarily non-aligned, albeit with different traditions and statuses, has further complicated the EU/WEU membership chart.<sup>21</sup> At Amsterdam, in particular, it made it more difficult to strike a deal on the institutional future of WEU. The combined resistance of the non-aligned member states and, for opposite reasons, of Britain (and Denmark) eventually prevailed over the attempt to speed up the integration of WEU into the EU/CFSP framework. A detailed three-stage proposal to this end was jointly submitted to the IGC by Belgium, France, Germany, Italy, Luxembourg and Spain in March 1997<sup>22</sup> – the Netherlands apparently

---

1948-1998 (The Hague: Sdu Publishers, 1998), esp. pp. 168 ff. (van Eekelen was WEU Secretary-General between 1989 and 1994); and Sophia Clément, 'L'UEO et le sud-est de l'Europe', dans Guido Lenzi (dir.), *L'UEO à cinquante ans* (Paris: Institute for Security Studies of WEU, 1998), pp. 103-19.

<sup>21</sup>On their respective traditions – with reference also to the UN's record – see Paul Luif, *On the Road to Brussels: The Political Dimension of Austria's, Finland's and Sweden's Accession to the European Union* (Vienna: Braumüller, 1995). In this respect it is worth noting that Austria, Finland and Sweden all participated in the WEU mission in Mostar, that Finland and Sweden (along with Denmark) have taken part in the WEU operation in Albania (MAPE), and that Sweden has even taken up the 'lead-nation' role in the demining operation in Croatia (WEUDAM). On their overall impact on the CFSP, see Lee Miles and John Redmond, 'Enlarging the European Union: The Erosion of Federalism?', *Cooperation and Conflict*, 31, September 1996, pp. 285-309; Stephan Kux, 'GASP und Beitrittskandidaten: Blockierung, Flexibilisierung oder vernetzte Sicherheitsgemeinschaft?', *Österreichische Zeitschrift für Politikwissenschaft*, 4, 1996, pp. 413-30; Jean-François Gribinski (ed.), *L'Autriche, la Finlande, la Suède et la sécurité européenne* (Paris: la documentation française, 1996); and the essays by Knud Erik Jørgensen, 'Possibilities of a "Nordic" Influence on the Development of the CFSP?', and Gunilla Herolf, 'The Role of Non-aligned States in European Defence Organisations: Finland and Sweden', in Mathias Jopp and Hanna Ojanen (eds.), *European Security Integration: Implications for Non-alignment and Alliances* (Helsinki: The Finnish Institute of International Affairs, 1999), pp. 103-66. For updated analyses, see also Gustav Gustenau, 'Towards a common European policy on security and defence: an Austrian view of challenges for the "post-neutrals"', *Occasional Paper 9* (Paris: Institute for Security Studies of WEU, October 1999); Hanna Ojanen, 'Participation and influence: Finland, Sweden and the post-Amsterdam development of the CFSP', *Occasional Paper 11*, February 2000.

<sup>22</sup>The first stage of the proposal – which did not mention any specific timetable – would coincide with the practical measures to take place after the signing of the Treaty revision. During the second stage, the WEU Secretariat would be incorporated into the EU Council Secretariat and the EU would take over the political control of WEU. The third stage would entail the disappearance of WEU as an independent organisation and the establishment of direct relations between the EU and NATO (see *Agence Europe*, 6941, 24 March 1997). For a useful analysis of the positions on the CFSP and WEU in the IGC, see Catriona Gurlay and Eric Remacle, 'The 1996 IGC: The Actors and their Interaction', in Kjell A.

backed it, yet preferred not to subscribe to it in order to preserve its role as acting president of the Conference – but it did not obtain the necessary consensus among the Fifteen.

In the end, Art. 17 consol. TEU defined WEU as ‘an integral part of the development of the Union’ in that it supports the EU ‘in framing the defence aspects of the CFSP’. Moreover, it reads, the EU ‘will avail itself of WEU to elaborate and implement decisions and actions of the Union which have defence implications’. WEU is also to be involved in the setting up and the subsequent activity of the Policy Planning and Early Warning Unit envisaged by the Treaty. On paper, therefore, now that ‘Petersberg-type’ tasks are explicitly included in the policy range of CFSP, the ‘agency’ role (support and access) that Art. 17 *de facto* attributes to WEU provides the functional connection between the two institutions: a declaration on EU/WEU relations attached to the Amsterdam Treaty lists the steps to be taken in the immediate future (short of a full merger) to foster what it calls – once again confusingly – ‘enhanced cooperation’ between WEU and the EU.<sup>23</sup>

Closer up, the picture looks even more intricate, especially as far as the decision-making procedures are concerned. Even under the terms of the new Treaty, the second pillar cannot by itself produce a ‘core’ group committed to a common security and defence, and cannot therefore bring about a multi-speed CFSP. The impulses the EU would be able to give to WEU will presumably be varied but limited in scope and intensity, and would in any case still require a concomitant unanimous decision by WEU itself (and by NATO, if the CJTF concept is brought into play). By contrast, WEU is legally entitled to decide autonomously on a security and defence action (including non-Art. V missions) without a concomitant decision by the EU, although many efforts are being made in order to fine-tune the (in)decision-making mechanism and improve coordination, in particular, of the rotational presidencies of both organisations.<sup>24</sup> This means, too, that it has become

---

Eliassen (ed.), *Foreign and Security Policy in the European Union* (London: Sage, 1998), pp. 59-93.

<sup>23</sup>Just a few days after the entry into force of the revised Treaty, the EU Council issued a specific decision (10 May 1999) concerning the practical ‘arrangements for enhanced cooperation’ between the EU and WEU based on the same Art. 17 and the attached Protocol. The latter also implies that, within one year from the entry into force of the Amsterdam provisions, the EU and WEU may move even further without necessarily calling a new IGC, i.e. through a simple (albeit unanimous) Council decision.

<sup>24</sup>For one thing, since 1993 the duration of the WEU rotational presidency has been reduced from one year to six months, in accordance with the provisions laid down in the

even less likely that WEU would act alone, since both its inner and outer ‘circles’ in practice refer to EU and/or NATO, as well as to the UN and OSCE. Paradoxically, in fact, such an ‘interface’ role of WEU, coupled with its poor *acquis militaire*, has not at all increased – as one may have assumed – the range of options available to its full members. Instead, it has facilitated what may be called ‘forum-hopping’ on the part of its member states, i.e. a policy (or practice) of deferring or even boycotting decisions and actions by more or less systematically ‘shuttling’ them between different bodies and forums.

For some evidence, one only has to look at what happened in the 1996-97 Albanian crisis, although it must be taken into account that it climaxed during the final stage of the IGC negotiations (and shortly before the British elections of May 1997). On the one hand, the lesson of Bosnia had been learnt, and the international community encouraged some form of external intervention at a relatively early stage. On the other hand, once the United States had made it clear that it would not play any direct role in Albania (as opposed to what it eventually did in Bosnia), the field was open for ‘Europe’ to act. Yet the formula that was adopted belied most of the commitments made earlier in this domain. The EU failed to reach unanimous agreement on an intervention in Albania under the existing CFSP provisions – Germany and Britain, in particular, expressed their reluctance to take action – while the WEU Council did not consider the possibility of taking independent action until it was confronted with the request to play a minor role on the ground, i.e. to send a reduced multinational advisory police element (MAPE), in the light of the experience previously acquired, for good or for ill, in Mostar.

In the end, a very mixed ‘coalition of the willing’ – France, Greece, Italy, Romania, Spain and Turkey, with minor contributions by Austria, Denmark (in its capacity as the OSCE rotational presidency) and, towards the end, Slovenia and Belgium – set up Operation ALBA with a UN/OSCE humanitarian mandate and under Italian ‘lead nation’-type leadership.<sup>25</sup> The

---

Maastricht Treaty for the EU presidency. Secondly, since January 1999 – starting with Germany – the presidencies of the EU and WEU are being held jointly whenever a WEU full member takes over the EU Council. The decision was taken by WEU after the signature of the Amsterdam Treaty. However, no ‘troika’ (either Maastricht- or Amsterdam-type) nor any other comparable mechanism has been established for WEU.

<sup>25</sup>The concept of ‘framework/lead nation’ (*nation-cadre*) – widely applied already in the UN and in other international organisations – was originally a French proposal and was formally adopted in the Paris Declaration of the WEU Council of Ministers on 13 May 1997. It applies to the organisation of autonomous WEU operations – of which it is a

mission was therefore undertaken *outside* any specifically European institutional framework. It lasted a relatively short time (as compared with IFOR/SFOR) – from April to August 1997, including a short extension of the original mandate – and proved relatively successful, given the initial difficulties on the ground. The fairly positive outcome may also explain why the W/EU governments who had resisted common action (by simply refraining from it, under Maastricht Treaty rules) seem to have had second thoughts and now, with the benefit of hindsight, regret not having made ALBA the first test-case – ahead of the entry into force of the Amsterdam provisions – for more effective CFSP action.<sup>26</sup>

Of course, it is difficult to assess whether an ALBA-like operation could actually have been set up and carried out under the new CFSP provisions of the Amsterdam Treaty. As a matter of fact, it was also the dynamic, not to mention the timing, of the final negotiations over the Treaty that led e.g. Britain to undermine the hypothesis of an EU common action. But ALBA has certainly become a quintessential case of ‘forum-hopping’ as well as of what has been called ‘ad-hocery’ or ‘ad-hocracy’, i.e. the practice of (and preference for) setting up one-off coalitions of interests with limited scope and a relatively loose mandate, rather than resorting to more structured and often already available multilateral frameworks.

Herein lies, of course, one of the main problems with building up a common European *acquis sécuritaire*, let alone a regime for the ‘Europe’ of security and defence. Especially after the end of the Cold War, the very nature of international crises demands a high degree of improvisation and adaptation of responses – hence the usefulness of ‘ad-hocery’ – while, by contrast, the establishment of common rules and more predictable procedures requires a firmer institutional underpinning: as Simon Nuttall has put it, ‘the more serious [the CFSP] gets, especially over the use of

---

special case – and is ‘designed to enable a European Headquarters to be established, using existing national or multinational assets, within timeframes compatible with the operational requirements, especially in situations of extreme urgency’. It explicitly seeks to envisage ‘flexible modes of action that are adaptable to a range of crisis situations’.

<sup>26</sup>For assessments, see Stefano Silvestri, ‘The Albanian Test Case’, *The International Spectator*, 3, 1997, pp. 87-98; Frank Debie, ‘La Grèce, l’Italie et l’Europe face au problème albanais. Gestion de crise et représentations géopolitiques’, *Relations Internationales & Stratégiques*, 28, hiver 1997, pp. 96-108; Georgios Kostakos and Dimitri Bourantonis, ‘Innovations in Peacekeeping: The Case of Albania’, *Security Dialogue*, 29, 1, 1998, pp. 49-58; Ettore Greco, ‘New Trends in Peacekeeping: The Experience of Operation ALBA’, *Security Dialogue*, 29, 2, 1998, pp. 201-12; Edward Foster, ‘Ad Hoc in Albania: Did Europe Fail?’, *ibid.*, pp. 213-17; and finally Susanna Di Felicianantonio, ‘EU Foreign Policy and Albania’, *European Foreign Affairs Review*, 4, 1999, pp. 519-36.



force, the more it needs to operate within solid legal structures, and the more it operates within solid legal structures, the less likely it is to be able to react flexibly to unforeseen changes'.<sup>27</sup>

The dilemma, therefore, goes far beyond the usual alternative between (lack of) political will and (lack of) appropriate institutions. It has also to do with the types of crises to be faced, with the array of instruments to prevent and/or tackle them, and with the possible actors involved: in the end, it impinges upon the legitimacy of crisis management proper. In other words, the nature of the policy arena plays an important part in determining the institutional reflex.

---

<sup>27</sup>Simon Nuttall, "Ad-hocery" Is a Neutral Concept', in Antonio Missiroli (ed.), 'Flexibility and Enhanced Cooperation in European Security Matters: Assets or Liabilities?', *Occasional Paper 6* (Paris: Institute for Security Studies of WEU, January 1999), p. 29. See also Willem F. van Eekelen, 'Pros and Cons of Ad-hocery', *ibid.*, pp. 24-7. On 'ad-hocracy', see Richard N. Haas, 'A Question of Force', *Financial Times*, 11 January 1999, p. 16.

## THE ROAD TO COLOGNE – AND BEYOND

It is not by chance, therefore, that the crucial change in the traditional attitudes *vis-à-vis* giving the EC/EU a defence component – British Prime Minister Tony Blair's 'initiative' of autumn 1998 – occurred as a consequence of the unfolding of the Kosovo crisis. Of course, Britain's (self-)exclusion from both 'Euroland' and 'Schengenland' – that is, the two main forms of flexibility put in place in the Union to date – played a role, too. For a government such as New Labour's, which was keen on showing 'positive engagement' and projecting 'leadership' in (and onto) Europe, dropping the decade-long British opposition to European defence represented a formidable political tool. Yet there is no reason to call into question the main explanation given by Blair himself, i.e. his frustration over Europe's persistent military impotence in the Balkans.

The ten weeks that shook the world of European security and defence policy-makers started with reports in the British press of a Foreign Office memorandum, drafted by Robert Cooper at the end of the UK presidency of the EU in the spring of 1998, that emphasised the need for Britain to take political action in this field.<sup>28</sup> The memo never became public, however, and the limelight was stolen by a paper published by the London-based Centre for European Reform (CER). It suggested that, in order to make European crisis management more effective and existing resources less diffuse, the EU should take over WEU's *political* functions and NATO its *military* functions. Such 'euthanasia' of WEU would help simplify the institutional landscape and streamline the decision-making process by reallocating its components where they presumably belong. With respect to the EU the paper, written by CER Director, Charles Grant, proposed the setting up of a 'fourth pillar' for defence proper, thus separating it (at least temporarily) from the existing second pillar, namely the CFSP.<sup>29</sup>

---

<sup>28</sup>See Robert Peston, 'Premier Tiptoes through EU Defence Minefield', *Financial Times*, 1 October 1998, p. 12; Robert Peston and Andrew Parker, 'UK Prepares Radical Plans for Europe', *Financial Times*, 2 October 1998, p. 1. For a background assessment, see Kirsty Hughes and Edward Smith, 'New Labour – New Europe?', *International Affairs*, 74, 1998, 1, pp. 93-103.

<sup>29</sup>Charles Grant, *Can Britain Lead in Europe?* (London: CER, 1998), esp. pp. 44-50. The idea of a specific 'fourth pillar' was nothing new in itself: it had been floated – mainly by Dutch experts – in order to draw a dedicated framework for military and NATO-related matters. See e.g. Gert C. de Nooy, 'Towards a Military Core Group in Europe?', *Clingendael Paper*, The Hague, January 1995, which specifically addressed the feasibility of NATO's Combined Joint Task Forces (CJTF) concept in different decision-making

Then, at the informal European Council held in Pörtlach (Austria) on 24 October 1998, Tony Blair himself called for ‘fresh thinking’ by Europeans on how to cooperate more closely and effectively on defence, albeit without abandoning their NATO allegiance. He mentioned different possible institutional options – including the gradual yet full merger of WEU into the EU hitherto rejected by London – but ruled out the creation of a ‘standing European army’, also making it clear that the British government did not have a definitive opinion as to the best way forward. A few days later, the Austrian presidency of the Union convened, in Vienna, the first ever (informal) meeting of EU Defence Ministers. On that occasion, the British representative George Robertson distanced himself a little from the earlier ‘fourth pillar’ proposal – presumably because separating the ‘S’ (and in perspective the ‘D’, for defence) from the ‘F’ in the CFSP would hardly increase its effectiveness – whilst maintaining that a more streamlined institutional structure was a necessary reform to be undertaken. His primary concern was for the simplification of existing procedures coupled with a capability to deliver, which did not rule out the option of reinforcing and reinvigorating WEU. By saying so, he indirectly confirmed that the UK policy on this point – once the traditional veto on the merger had been lifted – was still in a state of formation.

In other words, the combined challenges of Britain’s growing marginalisation from the EU’s fledgling ‘core’ and of another ‘war of Yugoslav succession’ prompted a specific response – Blair’s ‘initiative’ – that, in turn, triggered a whole chain of new developments: from the joint Franco-British St-Malo Declaration (4 December 1998) to the presidency conclusions of the European Council held in Vienna a few days later; from the final Communiqué of NATO’s Washington summit (April 1999) to the EU Council Declaration on ‘strengthening the common European policy on security and defence’ (Cologne, 4 June 1999) – let alone a series of bilateral statements aimed at the same goal – up to the Helsinki presidency conclusions and the attached report (see Annexes).<sup>30</sup>

---

scenarios and eventually advocated the creation of a ‘core group of Six’ encompassing Britain, France, Germany and the Benelux countries.

<sup>30</sup>For a quick overview, see Peter Schmidt, ‘Neuorientierung in der Europäischen Sicherheitspolitik? Britische und Britisch-Französische Initiativen’, *SWP-Arbeitspapier* 3088, (Ebenhausen: SWP, 1999); Antonio Missiroli, ‘Towards a European Security and Defence Identity? Record – State of Play – Prospects’, in Mathias Jopp and Hanna Ojanen (eds.), op. cit. in note 21, pp. 21-56, Mathias Jopp, *European Defence Policy: The Debate on the Institutional Aspects*, Institut für Europäische Politik, IEPDOK 11/b, Bonn, June-July 1999. Clearly written *before* the British ‘initiative’ – but no less useful – is Helene

In retrospect, the main upshot of one year of concentration of minds on the missing 'Europe' – namely, that of security and defence – is now that some key decisions are to be taken *by the EU* over:

- (a) the most appropriate institutional set-up for a strengthened CFSP that will include 'the progressive framing of a common defence policy'. To this end, as the Cologne Declaration further reads, the EU will define 'the modalities for the inclusion of those functions of the WEU which will be necessary for the EU to fulfil its new responsibilities in the area of the Petersberg tasks'. Streamlining and simplification, in other words, apply to both Unions ('in that event, the WEU *as an organisation* [will] have completed its purpose' – emphasis added) and decision-making processes;
- (b) the most efficient rationale for pooling and further developing common military 'capabilities and instruments . . . on the basis of existing national, bi-national and multinational' ones. To this end, a European audit has been carried out during successive WEU presidencies. Manpower, assets and structures will have to be adapted to the new tasks and, in most cases, domestic reforms will presumably have to comply with some policy 'targets' or 'benchmarks' set at the EU level;
- (c) the most effective way to 'strengthen the industrial and technological defence base'. This will involve industrial restructuring and cooperation as much as harmonisation of military requirements, with a view to a common planning and procurement of weapons systems. To this end, the European Commission, too, may be an important institutional player, and a revision of Art. 296 consol. TEC may prove necessary.

At this stage, of course, it is too early (and too difficult) to tell if, at the end of the day, 'Europe' will become even more 'post-modern' in its basic attitudes and working methods, if it will further grow into a 'regulatory' authority, or if it will eventually become a fully-fledged, if fundamentally peaceful, *puissance*.<sup>31</sup> What is clearer is that the traditionally slow, at best

---

Sjursen, 'Missed Opportunity or Eternal Phantasy? The Idea of a European Security and Defence Policy', in John Peterson and Helene Sjursen (eds.), *A Common Foreign Policy for Europe?* (London: Routledge, 1998), pp. 95-112.

<sup>31</sup>See for instance Robert Cooper, *The Post-Modern State and the World Order* (London: Demos, 1996); Giandomenico Majone (ed.), *Regulating Europe* (London: Routledge, 1996); Nicole Gnesotto, *La puissance et l'Europe* (Paris: Presses de Sciences Po, 1998). See also the drawing of similar ideal-types by Philippe C. Schmitter, 'Imagining the Future of the Euro-Polity', in Gary Marks, Fritz W. Scharpf, Philippe C. Schmitter and Wolfgang

incremental development of the *acquis politique* of the CFSP has recently gathered new momentum, both deepening and widening its scope; and that the usual distinctions between the intergovernmental and the community dimension of European policy-making is increasingly blurred, giving way to a comprehensive ‘Brusselisation’ – i.e. the steady enhancement of Brussels-based decision-making bodies and the pooling (rather than handing over) of sovereignty by member states – of not only their foreign but also their security *and* defence policies.<sup>32</sup>

What seems likely, for the time being, is that the decision on (a) will be a quintessentially political one – that is, mainly an object of classical diplomatic and intergovernmental bargaining while those on (b) and (c) may require the use of more sophisticated policy instruments.<sup>33</sup> This means that appropriate incentives and constraints have to be envisaged and put in place in order to generate convergence and compliance and to limit, if not entirely eradicate, ‘free-riding’. Such incentives and constraints have to take into account, however, the peculiar nature of security and defence as ‘public

---

Streeck, *Governance in the European Union* (London: Sage, 1996), pp. 121-50. For an overview of the main interpretations see James Caporaso, ‘The European Union and Forms of State: Westphalian, Regulatory, or Post-Modern?’, *Journal of Common Market Studies*, 34, 1996, 1, pp. 29-52.

<sup>32</sup>See David Allen, ‘The European Rescue of National Foreign Policy?’, in Christopher Hill (ed.), op. cit. in note 4, pp. 288-304 – the reference is clearly to Alan S. Milward’s famous book *The European Rescue of the Nation-State* (London: Routledge, 1992) – and especially David Allen, ‘“Who Speaks for Europe?” – The Search for an Effective and Coherent External Policy’, in John Peterson and Helene Sjursen (eds.), op. cit. in note 30, pp. 41-58. For the ‘fusion’ theory, see Wolfgang Wessels, ‘Staat und (westeuropäische) Integration: Die Fusionsthese’, *Politische Vierteljahresschrift*, 1992, Sonderheft 23, pp. 36-60; Fritz W. Scharpf, ‘Community and Autonomy Multilevel Policymaking in the European Union’, *Journal of European Public Policy*, 1994, 1, pp. 219-42.

<sup>33</sup>For a tentative analysis of what could be done in this specific field, see Timothy Garden and John Roper, *Next Steps to a Common Defence Policy*, unpublished manuscript (February 1999), partly reprinted as ‘Pooling Forces’, *CER Bulletin*, 9, December 1999, pp. 2-3; Kori Schake, Amaya Bloch-Lainé and Charles Grant, ‘Building a European Defence Capability’, *Survival*, 1999, 1, pp. 20-40. Both essays can also be read as a first indirect response to the conditions set by US Secretary of State Madeleine Albright to the development of a European defence capability – the famous ‘3 Ds’, i.e. *no duplication* (of existing NATO structures), *no discrimination* (against non-EU European members of NATO), and *no decoupling* (of European security) – in the wake of the St-Malo Declaration: see Madeleine Albright, ‘The Right Balance Will Secure NATO’s Future’, *Financial Times*, 7 December 1998, p. 12. More recently, in his first statement as NATO’s new Secretary-General, George Robertson spoke of ‘3 Is’, namely *improvement* (of European capabilities), *inclusiveness*, and *indivisibility*.

goods'<sup>34</sup> and the present asymmetry of resources among member states. And this is where 'flexibility' may come back into the picture.

---

<sup>34</sup>A 'public good' is joint and non-excludable by definition: 'jointness' means that its consumption by one individual does not diminish the amount of the good available to others; 'non-excludability' refers to the inability of producers of a public good to exclude those not paying for it from its consumption, labelled as 'free-riding': see the classic work by Mancur Olson, *The Logic of Collective Action* (Cambridge: Harvard University Press, 1965). In a seminal article, Olson and Zeckhauser developed a specific theory of military alliances by characterising deterrence as a 'public good' (Mancur Olson and Richard Zeckhauser, 'An Economic Theory of Alliances', *Review of Economics and Statistics*, 48, 1966, pp. 266-79). The pure 'public good' nature of defence has been increasingly put into question ever since, in particular by Sandler – see Todd Sandler, 'Impurity of Defense: An Application to the Economics Alliances', *Kyklos*, 30, 3, 1977, pp. 443-60; Todd Sandler and John F. Forbes, 'Burden Sharing, Strategy, and the Design of NATO', *Economic Inquiry*, 18, 1980, pp. 425-44 – who argued that defence is an 'impure' public good and that the costs and benefits of forming tight cooperative structures depend not only on economies of scale but also on transaction costs. See John R. Oneal, 'The Theory of Collective Action and Burden-Sharing in NATO', *International Organization*, 44, 1990, pp. 379-402; Marc A. Boyer, *International Cooperation and Public Goods: Opportunities for the Western Alliance* (Baltimore: Johns Hopkins University Press, 1993).

**OF CLUBS AND *DIRECTOIRES***  
**– AND OF POSSIBLE WAYS AHEAD**

So far, political scientists, and especially international relations theorists, have devoted scant and only intermittent attention to the role of ‘cores’ and ‘clubs’ in multilateral organisations and, more specifically, in defence and security matters.<sup>35</sup> In principle, an alliance becomes a ‘club’ when and where the ‘good’ is public inside, but not outside the club. In the case of W/EU, however, the distinction is blurred by the overlap with NATO and by the mismatch of membership between the different ‘Europes’. What is relevant here is what may (or should) happen if and when some actors belong to multiple ‘clubs’ relevant to varying issues, i.e. if and when a similar ‘core’ of actors is present in all the existing ‘clubs’. The problem has also to do with size and membership, since it is widely assumed – even among liberal ‘institutionalists’ – that cooperation in large numbers is much more difficult than in small. Hence the rise, over the past decade, of what has been labelled ‘mini-lateralism’ and of ‘club’-like practices both inside and outside multilateral institutions.<sup>36</sup> From the G-7 onwards, the multiplication of more or less informal forums devoted to specific issues (the Contact Group, for instance) has become a recurrent feature of international diplomacy. In so far as it has involved European larger states, however, it has triggered more or less vocal protest against the alleged *directoire* or new ‘concert of powers’ by the excluded EU members. Informal and self-appointed ‘cores’ and ‘clubs’, in other words, may run counter to the ‘logic of integration’, create unnecessary ‘tiers’ and divisions within the EU, and eventually produce very limited progress. At the same time, the ever growing ‘ever closer’ Union is already being confronted with serious governance problems, in both institutional and policy terms.

---

<sup>35</sup>For an excellent review of the literature and some interesting suggestions for further research, see Katja Weber, ‘Hierarchy Amidst Anarchy: A Transaction Costs Approach to International Security Cooperation’, *International Studies Quarterly*, 41, 1997, pp. 321-40. More specific analyses of ‘clubs’ and ‘cores’ have been developed in the field of public choice and game theory: see, respectively, Richard Cornes and Todd Sandler, *The Theory of Externalities, Public Goods and Club Goods* (Cambridge: Cambridge University Press, 1996); Robert Axelrod, *The Complexity of Cooperation: Agent-Based Models of Competition and Collaboration* (Princeton: Princeton University Press, 1997).

<sup>36</sup>Olson himself argued (op. cit. in note 34, p. 35) that ‘the larger the group, the farther it will fall short of providing an optimal amount of a collective good’. For the notion and the practice of ‘mini-lateralism’ see Miles Kahler, ‘Multilateralism With Small and Large Numbers’, *International Organization*, 3, 1992, pp. 681-708.

In order to try and meet all these challenges, therefore, ways have to be found – both inside and outside (or beyond) the Treaties – to trigger flexibility as a means to foster, not dilute or impair, integration. And this is especially true of the ‘strengthened’ CFSP, as acknowledged also by the Report recently submitted to the European Commission by the three ‘Wise Men’ appointed by President Romano Prodi.<sup>37</sup>

One tentative response to the challenge of intra-European diversity in security and defence matters was put forward in the late summer of 1998 by French President Jacques Chirac on the occasion of a meeting with the entire French diplomatic corps in Paris. Why not turn WEU into an ‘*agence*’ of CFSP, thus making actual use of its potential ‘availability’? According to his proposal (which met with interest e.g. in Italy and Belgium), WEU would become a form of ‘closer cooperation’ in its own right without requiring either Treaty changes or convoluted decision-making arrangements for the non-aligned partners. As a consequence, the ‘core’ or ‘club’ would simply consist of the WEU full members, with the possibility for all the other members of the larger family to ‘plug in’ (rather than ‘opt in’) on a case-by-case basis. The emphasis, in other words, would be on membership of both EU and NATO and, ultimately, in subscription to Art. 5/V, while a limited measure of ‘free-riding’ would be not only allowed but even encouraged. Yet Chirac’s idea of strengthening WEU and of partially ‘outsourcing’ the EU’s defence policy was quickly overtaken by events, above all by the British push for institutional streamlining and for eventually getting rid of WEU as a separate organisation. As a matter of fact, using it as an ‘*agence*’ would not *per se* solve the problem of ‘forum-hopping’, nor would it simplify the existing baroque inter-institutional web: a tentative ‘flow-chart’ drawn up on the occasion of a joint exercise held in June 1998 – and made public a few months later at the WEU Council held in Rome – to describe in detail the decision-making template between the EU and

---

<sup>37</sup>The special paragraph (2.2.8.) devoted to ‘flexibility’ reads as follows: the ‘CFSP should be included in the scope of closer cooperation. The process should remain open to all states who fulfil the necessary conditions. The principle should remain that flexibility is a way of building on and strengthening the Union’s achievements, not of loosening the ties that bind member states’. See Richard von Weizsäcker, Jean-Luc Dehaene and David Simon, *The Institutional Implications of Enlargement*, Brussels, 18 October 1999. Similar suggestions were put forward by Friends of Europe/Les amis de l’Europe, *A European Union That Works: Blueprint for Reform*, Brussels, June 1999, pp. 17-18. See also Karl Lamers, Wolfgang Schäuble, ‘Europe: une large réforme avant d’élargir’, *Le Monde*, 9 December 1999, p. 16.



WEU showed no fewer than 25 distinct procedural steps in crisis management.<sup>38</sup>

Possible forms of ‘flexibility’ for the CFSP, however, can still be envisaged in the light of experience and the existing legal framework. The most successful case of ‘flexibility’ put in place to date, of course, has been EMU: solidly anchored in the Treaties, it was based on a handful of detailed ‘convergence criteria’, a firm timetable, and a specific set of provisions (the European Central Bank, the opt-outs and the EMS-2, the Stability Pact) designed to manage the new policy. Its main strength has been the fact that it made good economic sense, that its institutional framework was consistent, that it was accepted by financial markets, and that it was supported by strong political will on the part of the key actors involved. Yet the recipe of EMU can be applied to the ‘strengthened’ CFSP only with several qualifications. First, international markets play a much more limited role in this field – they basically operate only on the ‘supply’ side of defence industry, while political decisions are still crucial on the ‘demand’ side – and they certainly do not play the same role of ‘referee’ for national policies as in EMU. Secondly, in light of the persistent mismatch of membership in the different security ‘clubs’ across Europe, a single, coherent, stringent Treaty-based blueprint for, say, a ‘diplomatic and military union’ (DMU) – as suggested in early 1999 by the then European Commissioner Emma Bonino<sup>39</sup> – seems improbable. Thirdly, and finally, trying to change the Treaty may even be counterproductive at this stage, given the peculiar nature of security and defence policy.

This said, the logic of generating policy ‘convergence’ by setting some common targets at the EU level may be usefully applied to the CFSP as well. It is not by chance that, in the aftermath of the Kosovo war, both analysts and policy-makers have started floating the idea of setting ‘convergence criteria’ for European defence, with the aim of improving European capabilities in a more coordinated way. The terminology may have shifted over time – along with the emphasis on the input or output, on *ex ante* or *ex post* compliance, on common ‘indicators’ or ‘headline goals’ – but the idea of promoting some convergence ‘from above’ is now on the EU

---

<sup>38</sup>See WEU CM (98) 39, *Modus Operandi of Article J.4.2/Article 17.3 and Flow Chart* (13 November 1998). The steps would amount to 37 (or even 45, depending on the type of interface) if NATO assets were to be used. See Stephan De Spiegeleire, ‘The European Security and Defence Identity and NATO: Berlin and Beyond’, in Mathias Jopp and Hanna Ojanen (eds.), *op. cit.* in note 21, pp. 57-99.

<sup>39</sup>See Emma Bonino, ‘A Single European Army’, *Financial Times*, 3 February 1999, p. 14.

table.<sup>40</sup> Such criteria may be, once again, of a mixed nature, e.g. functional/military and quantitative/economic (EMU itself entailed absolute as well as relative targets). And in this domain, of course, it would make little sense to order all countries to do the same things, even less to set a formal 'entry price' on the new common policy.

The criteria, therefore, have to be particularly flexible, and also leave room for subsidiarity in their implementation. Yet they have to be agreed upon at 15 and put some premium on compliance, emphasising both willingness and ability: only on that basis will it be possible (and acceptable) to set up an initial 'core' and, consequently, to entice ever more partners into deeper integration. This is, after all, another lesson of EMU: the foreseeable benefits of compliance have made it possible to have many more EU countries in the first wave than was initially imaginable, and also to draw most of the 'pre-ins' and 'outs' closer to the euro. The kind of 'flexibility' put in place with EMU has brought about policy convergence on a continental scale, thus better legitimising it, in turn, as a policy tool.<sup>41</sup> In fact, experience so far with EMU has also helped allay the widespread fears that 'flexibility' was a device to split the Union and to create *directoires* inside it. Such diverse countries as Finland, Italy, Portugal, Spain and even Greece feel much more confident now about their ability to

---

<sup>40</sup>See François Heisbourg, 'Europe Needs Defence Convergence Criteria', *CER Bulletin*, 6, 1999, p. 1; R. Medley, 'Europe's Next Big Idea', *Foreign Affairs*, 5, 1999, pp. 18-22; 'A Common European Military Policy', *Strategic Comments*, 6, 1999, pp. 1-2; Alyson Bailes, 'European Defence Convergence Criteria', *RUSI Journal*, 3, 1999, pp. 60-5; François Heisbourg, 'L'Europe de la défense dans l'Alliance Atlantique', *Politique Etrangère*, 2, 1999, pp. 219-32; Charles Grant, *European Defence after Kosovo* (London: CER, June 1999); Antonio Missiroli, 'European Security and Defence: The Case for Setting "Convergence Criteria"', *European Foreign Affairs Review*, 4, 1999, pp. 485-500; Gianni Bonvicini, 'European Defence: Beyond Functional Convergence. Procedures and Institutions', *The International Spectator*, 3, 1999, pp. 21-8. See also the interview given by French Defence Minister Alain Richard, 'Instaurer des critères de convergence peut inciter efficacement des Etats européens à une défense commune', *Le Monde*, 14 July 1999, p. 3. Finally, convergence criteria are explicitly mentioned for the first time as a policy goal in the British-Italian 'Joint Declaration launching European defence capabilities initiative' of 20 July 1999.

<sup>41</sup>On the lessons of EMU in this perspective, see Pier Carlo Padoan, 'Is European Monetary Union Endogenous?', *The International Spectator*, 34, 1999, 3, pp. 29-44; Martin Marcussen, 'The Dynamics of EMU Ideas', *Cooperation and Conflict*, 34, 1999, 4, pp. 383-411. Interestingly, the two initial 'opters-out' have come to similar conclusions but from distinct, if not opposite, policy inclinations: see Henrik Larsen, 'British and Danish European Policies in the 1990s: A Discourse Approach', *European Journal of International Relations*, 1999, 4, pp. 451-83.

be ‘in’ and, therefore, about the potential inclusiveness of ‘flexibility’.<sup>42</sup> On top of that, they have discovered that some degree of external constraint, if embedded in a common European endeavour, may even be helpful in enforcing controversial reforms domestically. And it is quite clear that strengthening European military capabilities – which the Kosovo war has proved is as urgent as it is necessary – entails painful and costly reforms in most EU countries, and this at a time when their respective publics are keener to spend on welfare than warfare.

EMU has also shown, however, that the euro would hardly have become a reality without the procedural steps written down in the Maastricht Treaty and the guarantees offered by the setting up of the European Central Bank. Institutions, in other words, do matter: the procedural *making* of a policy may prove no less important than the political consensus on its goals. And here the Amsterdam Treaty, in spite of all its inadequacies, offers at least one new instrument to try and generate some ‘convergence’ in security and defence policy. In fact, the criteria and their modes of implementation – no matter how much looser as compared with EMU – may be wrapped in a ‘common strategy’. The text of the Treaty does not prescribe specific contents for the common strategies, and the fact that the first ever, adopted by the European Council in Cologne, was devoted to Russia, and the second, adopted in Helsinki, to Ukraine does not mean (nor imply) that *all* common strategies have to be geographically or country-oriented. Art. 13 *consol.* TEU simply states that ‘the European Council shall decide on common strategies to be implemented by the Union in *areas* [*domaines* in the French version – emphasis added] where the member states have important interests in common. Common strategies shall set out their objectives, duration and the means to be made available by the Union and the member states.’

A common strategy aimed at giving teeth to the CFSP would have at least two important pluses: it would be *politically* (though not strictly legally) binding for all EU partners in all international forums, and it would also upgrade the CFSP and situate it *above* the second pillar proper, thus making it slightly easier to resort to fiscal and budgetary means if necessary. Besides, timetable and criteria could be adjusted without changing the Treaty: if fundamental problems arose along the way, a unanimous decision taken at the right time could prevent blocking or even disruption of the

---

<sup>42</sup>Similar fears, however, seem to be emerging in the countries that are presently negotiating their accession to the EU: see e.g. Jan Kulakowski, ‘The Dangers of a Two-tier Europe’, *Financial Times*, 28 October 1999, p. 19.

whole scheme. Last but not least, within the framework of such common strategy, specifically focused 'joint actions' – *actions communes* in the French version – could be decided and implemented by QMV (Art. 23.2 consol. TEU), thus enabling sizeable 'coalitions of the willing and able' to move further ahead.

This could well be the case for specific undertakings in the industrial or military field. A distinctive feature of security and defence is that EU partners are not all equally important in terms of assets and resources: this is a factor to be carefully taken into account, although the dividing line does not necessarily run between big and small countries as such, nor between aligned and non-aligned ones. By flexibly fostering policy convergence, however, even the potential risk of 'free-riding' would be reduced, in that willingness and ability would be measured against commonly agreed criteria, responsibility would be shared anyway and legitimacy would be enhanced: in other words, it would simply be a matter of 'riding'.

At a later stage, of course, some elements of the convergence scheme – especially the procedural and institutional ones – could be included in a protocol attached to the TEU, or even in the Treaty proper: in fact, the deadlines set for the decision over the integration of WEU 'functions' into the EU and for the conclusion of the IGC roughly coincide (end of 2000). The final menu of the negotiations, therefore, could eventually include more than the 'leftovers' of Amsterdam. It is not by chance that the conclusions of the European Council held in Helsinki on 10-11 December 1999 – while listing the three key institutional issues to be addressed at the forthcoming IGC (the size and composition of the Commission, the weighting of votes in the Council and the possible extension of QMV) – not only mentions 'other necessary amendments to the Treaties arising as regards the European institutions', but also gives to the incoming Portuguese EU presidency the possibility to 'propose additional issues to be taken on the agenda of the Conference'. This means that the door has been left open to a slightly more incisive overhaul of the present institutional set-up.

At any rate, in his first official briefing to the foreign press after taking over, the Portuguese Secretary of State for European Affairs, Francisco Seixas da Costa, clearly stated that an IGC 'confined to the Amsterdam leftovers' was not 'desirable' and stressed that Portugal hoped to seize the opportunity of chairing the IGC to treat 'different elements of an institutional nature' which would be 'useful for consolidating integration' in the prospect of an enlarged Union. In particular, he added, 'it is necessary to make flexibility more flexible' compared to what was set out in the Amsterdam Treaty: flexibility 'should intervene in all issues subject to

unanimity' and would require a legal structure 'which is appropriate for those who wish to go further, while leaving the door open' to those who, initially, may prefer to remain in the background. This, Seixas da Costa concluded, 'is perhaps the only model that will allow the Union to survive'.<sup>43</sup>

If this is the case, i.e. if the IGC tries to 'make flexibility more flexible' in the light of the forthcoming enlargement(s), it may prove necessary also to tackle one of the key triggering conditions of 'closer cooperation' as laid down in Art. 43 consol. TEU, namely the fact that flexibility should concern 'at least a majority of member states'. If the majority *principle* deserves to remain unchallenged – Jacques Delors's idea of an 'avant-garde', however interesting and far-sighted, still looks incompatible with the preservation of the existing single institutional framework<sup>44</sup> – it would be appropriate, in fact, to redefine the majority *concept* within an enlarged EU. Indeed, what may seem fair in a Union of 15 member states could be unfair in a Union of 27 or more, where a number of mostly small countries may prevent a large majority of the EU population (representing, in turn, a large share of the EU's GDP) from 'going further' and strengthening integration. A possible solution may lie in an explicit reference to the system of weighted votes instead of simply the number of member states, or rather in a combination of different indicators for such a 'majority'. Alternatively, it could be stated that 'closer cooperation' can be blocked only when there is a 'majority' (along the same lines) *against* it. Either way, this issue deserves to be raised at an early stage and to be included in the negotiations on the Amsterdam 'leftovers'.

Even beyond this, however, there would be room for testing flexibility *outside* the Treaty. Firstly, the constraints inserted in it and analysed in the second section of this paper 'shall not prevent the development of closer cooperation between two or more member states on a bilateral level, in the framework of WEU and the Atlantic Alliance, provided such cooperation

---

<sup>43</sup>See *Agence Europe*, 7628, 7 January 2000, pp. 3-4.

<sup>44</sup>See e.g. his recent interview in *Le Monde*, 19 janvier 2000, p. 2. According to Delors's vision, such a European avant-garde 'should have institutions that are proper to it', while the 'renewed institutions of the Treaty of Rome would be able to manage things as a whole'. In the same vein, the Liberal Group in the European Parliament recently suggested the establishment of 'a progressively developing concentric Union, with a federated core and a less integrated outer circle'. Accordingly, the Union as a whole would continue to develop as a 'confederation', while the 'European federation' would be created around countries belonging both to NATO and the euro-zone. See *Agence Europe*, 7635, 17-18 January 2000, p. 7.

does not run counter to or impede' the implementation of the CFSP (Art. 17.4 consol. TEU). Such a caveat, inserted already (for different reasons) in the Maastricht Treaty, could now act as a form of flexibility *by default*, potentially allowing some countries to act, so to speak, on behalf of the EU if and when their action is not considered contradictory with existing CFSP guidelines, as partly foreseen also in Art. 14.6 consol. TEU. If pushed to the extreme, however, this could mean the CFSP implicitly entailing 'enabling clauses' for policy implementation, which are clearly not allowed by the present Treaty.<sup>45</sup>

Secondly, it is worth recalling that what would become the CFSP was initially developed outside the Treaties – through the EPC framework – and only later inserted in the Single European Act (SEA) and in the Maastricht Treaty. It is worth recalling, too, that the 'Gymnich' format (informal meetings of foreign ministers, with an agenda but without decisions) has been preserved and resorted to even after that insertion. Finally, and perhaps most importantly, the 'Schengen' experience has shown that common standards and working habits established in an autonomous, loosely formalised 'space' can successfully lead to a regime and, in the end, to its full incorporation into the *acquis communautaire*. Similarly, therefore, the defence ministers of the Fifteen could easily build on the precedents already set during the Austrian and German EU presidencies and – irrespective of their participation in specially focused meetings of the General Affairs Council – replicate what their counterparts in the ministries of justice and home affairs did between 1990 and 1999, i.e. establish common working habits, procedures, and norms.<sup>46</sup> An informal space of this type – a sort of 'Gymnich-D', or pillar '2 A' – would partly vindicate the idea of a 'fourth pillar' for defence policy, yet it would clearly be an integral part of the CFSP machinery, with a view to being fully incorporated in the Treaty at a later stage. It would also meet the short-term demands of both the EU 'Atlanticists', who are keener on preserving the WEU *acquis* on relations with NATO, and the militarily non-aligned countries, who may need more time to adjust to the new priorities, to build domestic consensus on them,

---

<sup>45</sup>This is probably why a report recently prepared for the French Commissariat Général du Plan has explicitly called for the insertion of a *clause d'habilitation* for smaller groups of member states running operations on behalf of the EU: see Commissariat Général du Plan (working group chaired by Pascal Boniface), *Les relations extérieures de l'Union européenne*, Paris, October 1999, pp. 53 ff.

<sup>46</sup>A top French diplomat recently proposed the creation of a 'Schengen de la défense' to act as a magnetic 'core' for the CFSP: see Bertrand de Montferrand, *Défendre l'Europe. La tentation suisse* (Paris: Ed. Economica, 1999).

and eventually to converge. Finally, it might make it easier to involve other European NATO non-EU countries in the implementation of a CFSP with a defence dimension. Such involvement is now explicitly foreseen at the operational level on an *ad hoc* basis – according to the Helsinki report, ‘all EU member states are entitled to attend the *ad hoc* committee [of participants in an EU-led mission], whether or not they are participating in the operation, while only contributing states will take part in the day-to-day conduct of the operation’ – but it would necessarily profit from a more specific forum at the political level.

Thirdly, the integration of force structures and, above all, the organisation of a common arms procurement system may well constitute specific focal points for such endeavours: the Western European Armaments Group (WEAG) already aims at bringing about a European Armament Agency, while the OCCAR (Organisation Conjointe de Coopération en matière d’Armement) – as an autonomous, intergovernmental body since 1996 – may well become the nucleus of a fully-fledged Armaments Agency in its own right *if* its spectrum of activities is broadened and its entry requirements become less restrictive. In other words, they could end up representing (jointly or separately) for the CFSP what the Schengen Agreement has represented for the area of freedom, security and justice, namely an external *acquis* to be successfully ‘imported’ into the Treaty.<sup>47</sup> Here, however, particular attention should be paid to making such future *acquis* an achievable rather than a constantly moving target for initially non-participating (both present and future) EU countries, in order to ease policy convergence and prevent exclusion: in this respect, in fact, Schengen has not always been a positive experience for aspiring ‘opters-in’.

Hence the importance of choosing the right institutional instrument to develop such convergence in the first place. ‘Joint actions’, either within a ‘common strategy’ or in their own right (in which case, however, QMV could be applied only to their implementation, as stated in Art. 23.2 consol. TEU), look particularly fitting to this end: peer pressure and best practice, too, may foster and speed up such convergence so that, once again, the eventual membership of the new ‘club’ may turn out to be much larger than initially imagined or expected.

---

<sup>47</sup>See the analysis by Pierre de Vestel, ‘The Future of Armament Cooperation in NATO and the WEU’, in Kjell A. Eliassen (ed.), *op. cit.* in note 22, pp. 197-215. In this field, too, the pace of change has enormously increased over the past few months. See Sandra Mezzadri, ‘L’ouverture des marchés de la défense : enjeux et modalités’, *Occasional Paper* 12 (Paris: Institute for Security Studies of WEU, February 2000).

Needless to say, all these possible 'extra' forms of flexibility may be superseded by the forthcoming IGC: after all, closer cooperation in the second pillar *is* another one of the main 'leftovers' of Amsterdam, and the Presidency Report on what is now called the common European security and defence policy (CESDP) delivered in Helsinki on 11 December 1999 clearly invites the incoming Portuguese presidency to prepare 'recommendations on the institutional development of the new permanent political and military bodies related to the CESDP within the EU' as well as to give 'an indication of whether or not Treaty amendment is judged necessary': this could be the case, for instance, of CFSP/CESDP decisions to be taken at a lower level than that of the General Affairs Council.

However, two important elements have to be taken into account here: first, the notorious reluctance of most member states to embrace sweeping institutional reforms and their preference for a minimalist agenda entailing as few Treaty changes as possible. Second, the fact that – in the light of the reasoning so far, and in order to facilitate policy convergence on the CFSP and especially its CESDP – the necessary changes may be quite limited after all, though politically complicated to enforce.

The most difficult one would consist in limiting the potential impact of the 'diluted' version of the Luxembourg compromise now enshrined in the Treaty (Art. 23.2 consol. TEU). For instance: could the claim of 'important and stated reasons of national policy' be submitted to a decision-making procedure other than unanimity in the European Council? That is after all what happened in the late 1980s with Margaret Thatcher's obstinate opposition to deeper European integration: her vetoes were circumvented twice – and on politically crucial issues – by resorting to a procedural vote, for which unanimity is not required. Alternatively, could the *logic* of the 'Ioannina compromise' of 1994 on blocking minorities<sup>48</sup> be transferred to

---

<sup>48</sup>Actually, the deal struck at the European Council held on the Greek island of Ioannina referred to the size of weighted votes sufficient to block a Council decision to which QMV was applicable. In anticipation of the forthcoming northern enlargement of the EU, Britain in particular insisted on keeping the number at 23 in spite of the overall increase of Council votes (from 76 to 87), which would have it raised to 27 (26 without Norway). In the end it was agreed that, if there were between 23 and 26 weighted votes cast against adoption by QMV, 'the Council will do all in its power to reach, within a reasonable time . . . a satisfactory solution that could be adopted by at least 65 votes', i.e. slightly above the QMV threshold (see *Agence Europe*, 14 April, 1994). What is relevant here is the 'within a reasonable time' constraint – the official reading was three months – that was designed to pave the way for further negotiations and possible switches to the majority camp. In other words, lasting blocking powers could lead to a limited postponement of the controversial issue and/or a suspension of the decision – in order to seek a consensus – but not to their



Art. 23.2? By doing so, the claim might be used only once and no more, in order to prepare the ground for compromise solutions. Incidentally, such logic seems to become a useful device for taming major policy clashes at the most disparate levels: at the recent Helsinki summit, for instance, it was applied to fiscal matters (Britain's opposition to an EU-wide withholding tax) as well as to enlargement (Greece's conditions on the granting of candidate status to Turkey). The veto power of a single country would be increasingly weakened and, in the end, *de facto* cancelled. Yet its declaratory value – e.g. in the domestic arena – would be partially preserved. Of course, this is an extremely delicate area. However, it could prove vital to ensuring that the CFSP works in a Union of 27 or even more member states.

A further significant change could involve the budgetary dimension of the new CESDP. In the application of 'constructive abstention' as well as in the management of the new EU permanent and military bodies set up at the Helsinki summit, it would be sensible to rely as much as possible on the EU budget, perhaps by establishing a new specific line for the CESDP proper. Of course, expenditure for single operations would remain primarily *ad hoc* and rely on national contributions proportionate to size and actual participation (although a more specific 'key' could be envisaged, similarly to what happens in NATO). Such a shift would spur all member states into taking a very serious interest in sharing responsibilities along with costs, and would further reduce the room for 'free-riding'. On top of that, there is the precedent of closer cooperation on justice and home affairs to refer to (Art. 41 consol. TEU), which may also help reverse the logic of Art. 28.3 and Art. 44.2 consol. TEU by resorting to the EU budget in the first instance – unless the Council decides otherwise – instead of the other way round.

To sum up – in spite of (and beyond) the 'straitjacket' allegedly imposed by the Amsterdam Treaty – there are ways to put in place forms of 'closer cooperation' on security and defence:

- 'common strategies' can be used as a new policy framework to achieve policy convergence;

---

deletion from the EU agenda. See Geoffrey Edwards, 'The Council of Ministers and Enlargement: A Search for Efficiency, Effectiveness, and Accountability?', in John Redmond and Glenda G. Rosenthal (eds.), *The Expanding European Union: Past, Present, Future* (Boulder, CO: Lynne Rienner, 1998), pp. 41-64; Bart Kerremans, 'The Political and Institutional Consequences of Widening: Capacity and Control in an Enlarged Council', in Pierre-Henri Laurent and Marc Maresceau (eds.), *op. cit.* in note 19, pp. 87-109.

- within such a framework, more focused 'joint actions' can be envisaged, especially in the military and industrial fields;
- in the short-term, a specific defence 'space' could be loosely set up at the Council level, in order to test and anticipate future institutional developments.

Along with such pursuit of flexibility *by other means*, it would be important – if the IGC decides to overhaul the CFSP articles of the TEU – to strengthen budgetary solidarity, where absent, and to weaken the unanimity rule, where present. And if the IGC also decides to modify the articles on 'closer cooperation', it would be essential to redefine the concept of 'majority' in the light of the forthcoming enlargement(s).

### *E PLURIBUS UNA?*

In the end, however, even such apparently minor changes and improvements need to be embedded in a more coherent political and institutional design encompassing other common policies relevant to external relations in general and to crisis management in particular. After all, the assertion of the EU's 'identity on the international scene' and the 'consistency of its external activities as a whole' are explicitly stated as key objectives of the Union (now Arts. 2 and 3 consol. TEU).

As far as *trade* is concerned, for instance, the EU has a world-wide network of cooperative partnership arrangements as well as a central role in the World Trade Organisation (WTO): it has, however, a multiplicity of *ad hoc* policies rather than an overarching global strategy. The EU is still also one of the largest *aid* donors, but its overall foreign economic policy appears to be torn between the promotion of multilateral trade liberalisation and the safeguard of the least developed countries. As for the *euro*, it is expected to enhance the EU's potential for monetary diplomacy as an effective foreign policy tool, i.e. for actively using its economic and financial weight for the promotion of political interests. Its external representation, however, is still timid and fragmented, and it is not even seen as belonging to one and the same basket as trade and aid. In this sense, paradoxically, the EU suffers from an excess rather than a lack of flexibility, which is also reflected in the multiplicity of agencies and bureaucracies entitled to carry out single policies.

Last but not least, the EU's *enlargement* policy can be considered in itself as a foreign and security policy by other means, in that it frames all the elements mentioned above in a more consistent strategy based on conditionality and focused on sustainable integration. Yet again, it is being implemented separately from the CFSP proper,<sup>49</sup> and risks conflicting with other common policies in its effort to help the candidate countries enforce all the different *acquis*. As a matter of fact, such issues as the free movement of people across borders, the application of transitional periods for the new member states (*per se* another hidden form of flexibility), and their adaptation to the 'strengthened' CFSP/CESDP may soon raise

---

<sup>49</sup>See especially Karen E. Smith, *The Making of EU Foreign Policy: The Case of Eastern Europe* (New York: St Martin's Press, 1998); Heather Grabbe, 'A Partnership for Accession? The Implications of EU Conditionality for the Central and East European Applicants', *EUI Working Papers*, RSC 99/12; Lykke Friis and Anna Murphy, 'The European Union and Central and Eastern Europe: Governance and Boundaries', *Journal of Common Market Studies*, 37, 1999, 2, pp. 211-32.

complicated problems. For instance, the preliminary incorporation of Schengen's *acquis frontalier* by the applicants could easily impinge upon other stated 'soft' security goals – from the enforcement of minority rights to subregional economic cooperation – and require a more sophisticated, flexible but also comprehensive approach.

In principle, 'EU-led crisis management' should be able to resort to *all* these policy instruments, i.e. the military and the non-military ones, including those positive (rewards) and negative (penalties) diplomatic and economic measures that already belong to the CFSP 'toolbox' and to Europe as a 'civilian power'.<sup>50</sup> It should also apply and adapt them, in changing mixes, to different contingencies and 'security neighbourhoods'.<sup>51</sup> In so far as crisis management is based primarily upon crisis prevention, the array of policy instruments at the disposal of the Commission is clearly crucial: yet the new policies linked to the free movement of people across (internal and external) borders have also to be factored in. Conversely, inasmuch as crisis prevention may involve a certain amount of military deterrence (e.g. early deployment of troops in relevant areas) or civil police action (the gendarmerie/constabulary function), the 'availability' of appropriate W/EU assets may make a difference. Even for 'crisis response' proper, when the use of military force may prove indispensable, civilian intervention (e.g. in the field of humanitarian relief and emergency aid) is paramount. Of course, the most appropriate balance between carrot and stick can only emerge on a case-by-case basis. Both tools, however, have to be there – which has not been the case to date – and some procedural elements of pre-planning and a common crisis management 'doctrine' have to be sketched out, agreed upon and put in place in advance. This will require the recognition of common interests, the readiness to act together, and the commitment of the necessary

---

<sup>50</sup>For a critical overview, see Uwe Schmalz, 'The Amsterdam Provisions on External Coherence: Bridging the Union's Foreign Policy Dualism?', *European Foreign Affairs Review*, 3, 1998, pp. 421-42; Karen E. Smith, 'The Instruments of European Union Foreign Policy', in Jan Zielonka (ed.), *op. cit.* in note 2, pp. 67-85; Carolyn Rhodes (ed.), *The European Union in the World Community* (Boulder, CO: Lynne Rienner, 1998). For the main scholarly interpretations and a tentative categorisation, see Ian Manners and Richard Whitman, 'Towards Identifying the International Identity of the European Union: A Framework for Analysis of the EU's Network of Relationship', *European Integration*, 21, 1998, pp. 231-49; Roy Ginsberg, 'Conceptualizing the European Union as an International Actor: Narrowing the Theoretical Capability-Expectations Gap', *Journal of Common Market Studies*, 37, 1999, 3, pp. 429-54.

<sup>51</sup>The term is convincingly used by Przemyslaw Grudzinski and Peter van Ham, *A Critical Approach to European Security: Identity and Institutions* (London: Pinter, 1999), esp. pp. 150 ff.

resources. As a preliminary step in this direction, the presidency reports submitted to the Helsinki European Council in December 1999 undoubtedly show an increased awareness of the variety and complexity of instruments to be made available to such a 'Europe'.

If full consistency and cross-pillar coordination – i.e. a single 'Europe' – may still require time and work, some degree of compatibility, complementarity and convergence can already be aimed at. In principle, again, this should lead to the formation of a sort of 'centre of gravity' of the Union made up of its most integrationist members (and bodies) and its common policy 'cores'.<sup>52</sup> Incidentally, this is also what most public policy analysts argue, i.e. that overlapping club memberships are an effective means both to solve problems of collective goods and to knit disparate units together. In the medium term, in other words, core policies, core members and core institutions would tend to coincide,<sup>53</sup> thus generating a new 'engine' for a Union of 20-plus member states comparable to the one provided by the Franco-German 'duumvirate' for an EC of 6 to 12. And such an engine – or rather magnetic field, or even 'spiral staircase'<sup>54</sup> – is not necessarily bound to become a pre-determined and restricted *directoire* of the happy few: as EMU and (to a lesser extent) Schengen have shown, policy 'cores' need not be that 'hard' in order to work effectively. After all, a 'hard-core' EMU could have jeopardised the single market, and a 'small' Schengen could have created new barriers *inside* the EU. Furthermore, the traditional inclination of some member states to 'go it alone' in their diplomatic or military action seems to have given way to a preference for a multilateral, mostly 'European' framework – which makes it even more important to try and strike the right balance between leadership and partnership, effectiveness and inclusiveness, credibility and solidarity.

Finally, Javier Solana's appointment as EU Council Secretary-General *and* High Representative (SG/HR) for the CFSP is expected to foster coordination and consistency, at least inside the Council, through better

---

<sup>52</sup>The urgency to establish *un centre de gravité géopolitique* with the countries participating in all *coopérations renforcées* is openly advocated by another recent report for the French Commissariat Général du Plan: Jean-Louis Quermonne, Gilles Andréani and Mario Dehove, *L'Union Européenne en quête d'institutions légitimes et efficaces* (Paris: la documentation française, 1999), pp. 71 ff.

<sup>53</sup>For the distinction of the three 'cores', see Helen Wallace and William Wallace, 'Flying Together in a Larger and More Diverse European Union', Working Document (W 87), The Netherlands Scientific Council for Government Policy, The Hague, 1995.

<sup>54</sup>The metaphor of the 'spiral' dynamics was suggested by Daniel Vernet, 'L'Europe en colimaçon', *Le Monde*, 10 December 1999, p. 1.

liaison with national governments, centralisation of the activity of the EU's 'special representatives' (now for Bosnia, the Middle East, the African Great Lakes, plus the Stability Pact for South-Eastern Europe) and specialised agencies and, in light of the decisions recently taken in Helsinki, supervision of the work of the new political and military EU bodies set up to shape the CESDP. The element of bureaucratic continuity and political visibility represented by 'Monsieur PESC', however, may also create a dualism with the presidency of the Union and, more generally, tensions within the new EU troika: in fact, the democratic element represented by the rotational presidency may be easily offset by the SG/HR and the new Commissioner in charge of external relations as a whole, Chris Patten. And here, predictably, the balance of power and influence will change according to the size, political weight and specific attitude of the country holding the presidency – including whether it belongs or not to the above-mentioned 'cores'.

In turn, Javier Solana's 'double-hatting' as 'Monsieur PESC' and WEU Secretary-General – as decided by the respective bodies of the EU and WEU in November 1999 – is expected to facilitate what now looks like a 'friendly take-over' of WEU by the EU. As such, it may end up accelerating the merger or, at least in the short term, may also resuscitate the prospect of WEU as an *'agence'* acting on behalf of the Union: in both cases, it could represent an important catalyst for the CESDP, combining elements of flexibility with a visible leadership function. Success will crucially depend, once again, on the working habits and arrangements that are gradually established between all the bodies, forums, agencies and personalities involved in the making of the CFSP and the CESDP proper – that is, on their *modus operandi* as well as on their *modus vivendi*.

On all this, the TEU says very little, merely stating that:

- 'the Presidency shall be assisted by the Secretary-General of the Council who shall exercise the function of High Representative for the CFSP' (Art. 18 consol. TEU);
- the High Representative 'shall assist the Council in matters coming within the scope of the CFSP, in particular through contributing to the formulation, preparation and implementation of policy decisions and, when appropriate and acting on behalf of the Council at the request of the Presidency, through conducting political dialogue with third parties' (Art. 26 consol. TEU);
- 'the Council shall be assisted by a General Secretariat, under the responsibility of a Secretary-General, High Representative for the CFSP,

who shall be assisted by a Deputy Secretary-General responsible for the running of the General Secretariat . . . The Council shall decide on the organisation of the General Secretariat' (Art. 207.2 consol. TEC).<sup>55</sup>

In other words, there is room for increased inter- and intra-institutional cooperation as much as competition. It seems therefore likely that a trial period will be followed by a general review, to be subsequently 'constitutionalised' in the Treaty – which, incidentally, would be entirely in line with the idea of a provisional 'space' for the fledgling CESDP.

On all counts, in conclusion, it is arguable that applying forms of flexibility to the CFSP would serve primarily to promote policy convergence and to provide political leadership – which, in turn, could eventually make it easier for the EU to run not only an 'ALBA'-type operation but also 'the most demanding' (as described in the presidency progress report approved at Helsinki) of the Petersberg tasks. In the present circumstances, this seems the only way in which the entire process of European integration can make headway and widen its scope alongside its geographical reach. As such, however, it will constitute as much a challenge as a response to decades of 'diversity' and often diverging national policy goals across the continent.

---

<sup>55</sup>For preliminary assessments, see Andrew Cottey, *The European Union and Conflict Prevention: The Role of the High Representative and the Policy Planning and Early Warning Unit* (London: Saferworld/International Alert Report, 1998); Simon Nuttall, 'Der Generalsekretär des Rates und Hohe Vertreter für die GASP – Die ersten einhundert Tage', *GASP-Forum*, 1999, 3, pp. 2-4.





**CONSOLIDATED VERSION OF THE TREATY ON EUROPEAN UNION**

## TITLE V

## PROVISIONS ON A COMMON FOREIGN AND SECURITY POLICY

*Article 17 (ex Article J.7)*

1. The common foreign and security policy shall include all questions relating to the security of the Union, including the progressive framing of a common defence policy, in accordance with the second subparagraph, which might lead to a common defence, should the European Council so decide. It shall in that case recommend to the Member States the adoption of such a decision in accordance with their respective constitutional requirements.

The Western European Union (WEU) is an integral part of the development of the Union providing the Union with access to an operational capability notably in the context of paragraph 2. It supports the Union in framing the defence aspects of the common foreign and security policy as set out in this Article. The Union shall accordingly foster closer institutional relations with the WEU with a view to the possibility of the integration of the WEU into the Union, should the European Council so decide. It shall in that case recommend to the Member States the adoption of such a decision in accordance with their respective constitutional requirements.

The policy of the Union in accordance with this Article shall not prejudice the specific character of the security and defence policy of certain Member States and shall respect the obligations of certain Member States, which see their common defence realised in the North Atlantic Treaty Organisation (NATO), under the North Atlantic Treaty and be compatible with the common security and defence policy established within that framework.

The progressive framing of a common defence policy will be supported, as Member States consider appropriate, by cooperation between them in the field of armaments.

2. Questions referred to in this Article shall include humanitarian and rescue tasks, peacekeeping tasks and tasks of combat forces in crisis management, including peacemaking.

3. The Union will avail itself of the WEU to elaborate and implement decisions and actions of the Union which have defence implications.

The competence of the European Council to establish guidelines in accordance with Article 13 shall also obtain in respect of the WEU for those matters for which the Union avails itself of the WEU.

When the Union avails itself of the WEU to elaborate and implement decisions of the Union on the tasks referred to in paragraph 2 all Member States of the Union shall be entitled to participate fully in the tasks in question. The Council, in agreement with the institutions of the WEU, shall adopt the necessary practical arrangements to allow all

Member States contributing to the tasks in question to participate fully and on an equal footing in planning and decision taking in the WEU.

Decisions having defence implications dealt with under this paragraph shall be taken without prejudice to the policies and obligations referred to in paragraph 1, third subparagraph.

4. 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 such cooperation does not run counter to or impede that provided for in this Title.

5. With a view to furthering the objectives of this Article, the provisions of this Article will be reviewed in accordance with Article 48.

*Article 23 (ex Article J.13)*

1. Decisions under this Title shall be taken by the Council acting unanimously. Abstentions by members present in person or represented shall not prevent the adoption of such decisions.

When abstaining in a vote, any member of the Council may qualify its abstention by making a formal declaration under the present subparagraph. In that case, it shall not be obliged to apply the decision, but shall accept that the decision commits the Union. In a spirit of mutual solidarity, the Member State concerned shall refrain from any action likely to conflict with or impede Union action based on that decision and the other Member States shall respect its position. If the members of the Council qualifying their abstention in this way represent more than one third of the votes weighted in accordance with Article 205(2) of the Treaty establishing the European Community, the decision shall not be adopted.

2. By derogation from the provisions of paragraph 1, the Council shall act by qualified majority:

- when adopting joint actions, common positions or taking any other decision on the basis of a common strategy;
- when adopting any decision implementing a joint action or a common position.

If a member of the Council declares that, for important and stated reasons of national policy, it intends to oppose the adoption of a decision to be taken by qualified majority, a vote shall not be taken. The Council may, acting by a qualified majority, request that the matter be referred to the European Council for decision by unanimity.

The votes of the members of the Council shall be weighted in accordance with Article 205(2) of the Treaty establishing the European Community. For their adoption, decisions shall require at least 62 votes in favour, cast by at least 10 members.

This paragraph shall not apply to decisions having military or defence implications.

3. For procedural questions, the Council shall act by a majority of its members.

## TITLE VI

## PROVISIONS ON POLICE AND JUDICIAL COOPERATION IN CRIMINAL MATTERS

*Article 40 (ex Article K.12)*

1. Member States which intend to establish closer cooperation between themselves may be authorised, subject to Articles 43 and 44, to make use of the institutions, procedures and mechanisms laid down by the Treaties provided that the cooperation proposed:

- (a) respects the powers of the European Community, and the objectives laid down by this Title;
- (b) has the aim of enabling the Union to develop more rapidly into an area of freedom, security and justice.

2. The authorisation referred to in paragraph 1 shall be granted by the Council, acting by a qualified majority at the request of the Member States concerned and after inviting the Commission to present its opinion; the request shall also be forwarded to the European Parliament.

If a member of the Council declares that, for important and stated reasons of national policy, it intends to oppose the granting of an authorisation by qualified majority, a vote shall not be taken. The Council may, acting by a qualified majority, request that the matter be referred to the European Council for decision by unanimity.

The votes of the members of the Council shall be weighted in accordance with Article 205(2) of the Treaty establishing the European Community. For their adoption, decisions shall require at least 62 votes in favour, cast by at least 10 members.

3. Any Member State which wishes to become a party to cooperation set up in accordance with this Article shall notify its intention to the Council and to the Commission, which shall give an opinion to the Council within three months of receipt of that notification, possibly accompanied by a recommendation for such specific arrangements as it may deem necessary for that Member State to become a party to the cooperation in question. Within four months of the date of that notification, the Council shall decide on the request and on such specific arrangements as it may deem necessary. The decision shall be deemed to be taken unless the Council, acting by a qualified majority, decides to hold it in abeyance; in this case, the Council shall state the reasons for its decision and set a deadline for re-examining it. For the purposes of this paragraph, the Council shall act under the conditions set out in Article 44.

4. The provisions of Articles 29 to 41 shall apply to the closer cooperation provided for by this Article, save as otherwise provided for in this Article and in Articles 43 and 44.

The provisions of the Treaty establishing the European Community concerning the powers of the Court of Justice of the European Communities and the exercise of those powers shall apply to paragraphs 1, 2 and 3.

5. This Article is without prejudice to the provisions of the Protocol integrating the Schengen acquis into the framework of the European Union.

*Article 41 (ex Article K.13)*

1. Articles 189, 190, 195, 196 to 199, 203, 204, 205(3), 206 to 209, 213 to 219, 255 and 290 of the Treaty establishing the European Community shall apply to the provisions relating to the areas referred to in this Title.

2. Administrative expenditure which the provisions relating to the areas referred to in this Title entail for the institutions shall be charged to the budget of the European Communities.

3. Operational expenditure to which the implementation of those provisions gives rise shall also be charged to the budget of the European Communities, except where the Council acting unanimously decides otherwise. In cases where expenditure is not charged to the budget of the European Communities it shall be charged to the Member States in accordance with the gross national product scale, unless the Council acting unanimously decides otherwise.

4. The budgetary procedure laid down in the Treaty establishing the European Community shall apply to the expenditure charged to the budget of the European Communities.

*Article 42 (ex Article K.14)*

The Council, acting unanimously on the initiative of the Commission or a Member State, and after consulting the European Parliament, may decide that action in areas referred to in Article 29 shall fall under Title IV of the Treaty establishing the European Community, and at the same time determine the relevant voting conditions relating to it. It shall recommend the Member States to adopt that decision in accordance with their respective constitutional requirements.

## TITLE VII (ex Title VIa)

## PROVISIONS ON CLOSER COOPERATION

*Article 43 (ex Article K.15)*

1. Member States which intend to establish closer cooperation between themselves may make use of the institutions, procedures and mechanisms laid down by this Treaty and the Treaty establishing the European Community provided that the cooperation:

- (a) is aimed at furthering the objectives of the Union and at protecting and serving its interests;
- (b) respects the principles of the said Treaties and the single institutional framework of the Union;
- (c) is only used as a last resort, where the objectives of the said Treaties could not be attained by applying the relevant procedures laid down therein;
- (d) concerns at least a majority of Member States;
- (e) does not affect the 'acquis communautaire' and the measures adopted under the other provisions of the said Treaties;

- (f) does not affect the competences, rights, obligations and interests of those Member States which do not participate therein;
- (g) is open to all Member States and allows them to become parties to the cooperation at any time, provided that they comply with the basic decision and with the decisions taken within that framework;
- (h) complies with the specific additional criteria laid down in Article 11 of the Treaty establishing the European Community and Article 40 of this Treaty, depending on the area concerned, and is authorised by the Council in accordance with the procedures laid down therein.

2. Member States shall apply, as far as they are concerned, the acts and decisions adopted for the implementation of the cooperation in which they participate. Member States not participating in such cooperation shall not impede the implementation thereof by the participating Member States.

*Article 44 (ex Article K.16)*

1. For the purposes of the adoption of the acts and decisions necessary for the implementation of the cooperation referred to in Article 43, the relevant institutional provisions of this Treaty and of the Treaty establishing the European Community shall apply. However, while all members of the Council shall be able to take part in the deliberations, only those representing participating Member States shall take part in the adoption of decisions. The qualified majority shall be defined as the same proportion of the weighted votes of the members of the Council concerned as laid down in Article 205(2) of the Treaty establishing the European Community. Unanimity shall be constituted by only those Council members concerned.

2. Expenditure resulting from implementation of the cooperation, other than administrative costs entailed for the institutions, shall be borne by the participating Member States, unless the Council, acting unanimously, decides otherwise.

*Article 45 (ex Article K.17)*

The Council and the Commission shall regularly inform the European Parliament of the development of closer cooperation established on the basis of this Title.

**CONSOLIDATED VERSION OF THE TREATY ESTABLISHING  
THE EUROPEAN COMMUNITY**

*Article 11 (ex Article 5a)*

1. Member States which intend to establish closer cooperation between themselves may be authorised, subject to Articles 43 and 44 of the Treaty on European Union, to make use of the institutions, procedures and mechanisms laid down by this Treaty, provided that the cooperation proposed:

- (a) does not concern areas which fall within the exclusive competence of the Community;
- (b) does not affect Community policies, actions or programmes;
- (c) does not concern the citizenship of the Union or discriminate between nationals of Member States;
- (d) remains within the limits of the powers conferred upon the Community by this Treaty; and
- (e) does not constitute a discrimination or a restriction of trade between Member States and does not distort the conditions of competition between the latter.

2. The authorisation referred to in paragraph 1 shall be granted by the Council, acting by a qualified majority on a proposal from the Commission and after consulting the European Parliament.

If a member of the Council declares that, for important and stated reasons of national policy, it intends to oppose the granting of an authorisation by qualified majority, a vote shall not be taken. The Council may, acting by a qualified majority, request that the matter be referred to the Council, meeting in the composition of the Heads of State or Government, for decision by unanimity.

Member States which intend to establish closer cooperation as referred to in paragraph 1 may address a request to the Commission, which may submit a proposal to the Council to that effect. In the event of the Commission not submitting a proposal, it shall inform the Member States concerned of the reasons for not doing so.

3. Any Member State which wishes to become a party to cooperation set up in accordance with this Article shall notify its intention to the Council and to the Commission, which shall give an opinion to the Council within three months of receipt of that notification. Within four months of the date of that notification, the Commission shall decide on it and on such specific arrangements as it may deem necessary.

4. The acts and decisions necessary for the implementation of cooperation activities shall be subject to all the relevant provisions of this Treaty, save as otherwise provided for in this Article and in Articles 43 and 44 of the Treaty on European Union.

5. This Article is without prejudice to the provisions of the Protocol integrating the Schengen acquis into the framework of the European Union.

## ANNEXE C

**JOINT DECLARATION ISSUED AT THE BRITISH-FRENCH SUMMIT,  
SAINT-MALO, FRANCE, 3-4 DECEMBER 1998**

The Heads of State and Government of France and the United Kingdom are agreed that:

1. The European Union needs to be in a position to play its full role on the international stage. This means making a reality of the Treaty of Amsterdam, which will provide the essential basis for action by the Union. It will be important to achieve full and rapid implementation of the Amsterdam provisions on CFSP. This includes the responsibility of the European Council to decide on the progressive framing of a common defence policy in the framework of CFSP. The Council must be able to take decisions on an intergovernmental basis, covering the whole range of activity set out in Title V of the Treaty of European Union.

2. To this end, the Union must have the capacity for autonomous action, backed up by credible military forces, the means to decide to use them, and a readiness to do so, in order to respond to international crises.

In pursuing our objective, the collective defence commitments to which member states subscribe (set out in Article 5 of the Washington Treaty, Article V of the Brussels Treaty) must be maintained. In strengthening the solidarity between the member states of the European Union, in order that Europe can make its voice heard in world affairs, while acting in conformity with our respective obligations in NATO, we are contributing to the vitality of a modernised Atlantic Alliance which is the foundation of the collective defence of its members.

Europeans will operate within the institutional framework of the European Union (European Council, General Affairs Council, and meetings of Defence Ministers).

The reinforcement of European solidarity must take into account the various positions of European states.

The different situations of countries in relation to NATO must be respected.

3. In order for the European Union to take decisions and approve military action where the Alliance as a whole is not engaged, the Union must be given appropriate structures and a capacity for analysis of situations, sources of intelligence, and a capability for relevant strategic planning, without unnecessary duplication, taking account of the existing assets of the WEU and the evolution of its relations with the EU. In this regard, the European Union will also need to have recourse to suitable military means (European capabilities pre-designated within NATO's European pillar or national or multinational European means outside the NATO framework).

4. Europe needs strengthened armed forces that can react rapidly to the new risks, and which are supported by a strong and competitive European defence industry and technology.

5. We are determined to unite in our efforts to enable the European Union to give concrete expression to these objectives.

**PRESIDENCY CONCLUSIONS: COLOGNE EUROPEAN COUNCIL,  
3 AND 4 JUNE 1999**

EUROPEAN COUNCIL DECLARATION ON STRENGTHENING THE COMMON  
EUROPEAN POLICY ON SECURITY AND DEFENCE

1. We, the members of the European Council, are resolved that the European Union shall play its full role on the international stage. To that end, we intend to give the European Union the necessary means and capabilities to assume its responsibilities regarding a common European policy on security and defence. The work undertaken on the initiative of the German Presidency and the entry into force of the Treaty of Amsterdam permit us today to take a decisive step forward.

In pursuit of our Common Foreign and Security Policy objectives and the progressive framing of a common defence policy, we are convinced that the Council should have the ability to take decisions on the full range of conflict prevention and crisis management tasks defined in the Treaty on European Union, the 'Petersberg tasks'. To this end, the Union must have the capacity for autonomous action, backed up by credible military forces, the means to decide to use them, and a readiness to do so, in order to respond to international crises without prejudice to actions by NATO. The EU will thereby increase its ability to contribute to international peace and security in accordance with the principles of the UN Charter.

2. We are convinced that to fully assume its tasks in the field of conflict prevention and crisis management the European Union must have at its disposal the appropriate capabilities and instruments. We therefore commit ourselves to further develop more effective European military capabilities from the basis of existing national, bi-national and multinational capabilities and to strengthen our own capabilities for that purpose. This requires the maintenance of a sustained defence effort, the implementation of the necessary adaptations and notably the reinforcement of our capabilities in the field of intelligence, strategic transport, command and control. This also requires efforts to adapt, exercise and bring together national and multinational European forces.

We also recognise the need to undertake sustained efforts to strengthen the industrial and technological defence base, which we want to be competitive and dynamic. We are determined to foster the restructuring of the European defence industries amongst those States involved. With industry we will therefore work towards closer and more efficient defence industry collaboration. We will seek further progress in the harmonisation of military requirements and the planning and procurement of arms, as Member States consider appropriate.

3. We welcome the results of the NATO Washington summit as regards NATO support for the process launched by the EU and its confirmation that a more effective role for the European Union in conflict prevention and crisis management will contribute to the vitality of a renewed Alliance. In implementing this process launched by the EU, we shall ensure the development of effective mutual consultation, cooperation and transparency between the European Union and NATO.



We want to develop an effective EU-led crisis management in which NATO members, as well as neutral and non-allied members, of the EU can participate fully and on an equal footing in the EU operations.

We will put in place arrangements that allow non-EU European allies and partners to take part to the fullest possible extent in this endeavour.

4. We therefore approve and adopt the report prepared by the German Presidency, which reflects the consensus among the Member States.

5. We are now determined to launch a new step in the construction of the European Union. To this end we task the General Affairs Council to prepare the conditions and the measures necessary to achieve these objectives, including the definition of the modalities for the inclusion of those functions of the WEU which will be necessary for the EU to fulfil its new responsibilities in the area of the Petersberg tasks. In this regard, our aim is to take the necessary decisions by the end of the year 2000. In that event, the WEU as an organisation would have completed its purpose. The different status of Member States with regard to collective defence guarantees will not be affected. The Alliance remains the foundation of the collective defence of its Member States.

We therefore invite the Finnish Presidency to take the work forward within the General Affairs Council on the basis of this declaration and the report of the Presidency to the European Council meeting in Cologne. We look forward to a progress report by the Finnish Presidency to the Helsinki European Council meeting.

**PRESIDENCY CONCLUSIONS  
HELSINKI EUROPEAN COUNCIL 10 AND 11 DECEMBER 1999**

**II. COMMON EUROPEAN POLICY ON SECURITY AND DEFENCE**

25. The European Council adopts the two Presidency progress reports (see Annex IV) on developing the Union's military and non-military crisis management capability as part of a strengthened common European policy on security and defence.

26. The Union will contribute to international peace and security in accordance with the principles of the United Nations Charter. The Union recognises the primary responsibility of the United Nations Security Council for the maintenance of international peace and security.

27. The European Council underlines its determination to develop an autonomous capacity to take decisions and, where NATO as a whole is not engaged, to launch and conduct EU-led military operations in response to international crises. This process will avoid unnecessary duplication and does not imply the creation of a European army.

28. Building on the guidelines established at the Cologne European Council and on the basis of the Presidency's reports, the European Council has agreed in particular the following:

- cooperating voluntarily in EU-led operations, Member States must be able, by 2003, to deploy within 60 days and sustain for at least 1 year military forces of up to 50,000-60,000 persons capable of the full range of Petersberg tasks;
- new political and military bodies and structures will be established within the Council to enable the Union to ensure the necessary political guidance and strategic direction to such operations, while respecting the single institutional framework;
- modalities will be developed for full consultation, cooperation and transparency between the EU and NATO, taking into account the needs of all EU Member States;
- appropriate arrangements will be defined that would allow, while respecting the Union's decision-making autonomy, non-EU European NATO members and other interested States to contribute to EU military crisis management;
- a non-military crisis management mechanism will be established to coordinate and make more effective the various civilian means and resources, in parallel with the military ones, at the disposal of the Union and the Member States.

29. The European Council asks the incoming Presidency, together with the Secretary-General/High Representative, to carry work forward in the General Affairs Council on all aspects of the reports as a matter of priority, including conflict prevention and a committee for civilian crisis management. The incoming Presidency is invited to draw up a first progress report to the Lisbon European Council and an overall report to be presented to the Feira European Council containing appropriate recommendations and proposals, as well as an indication of whether or not Treaty amendment is judged necessary. The General Affairs

Council is invited to begin implementing these decisions by establishing as of March 2000 the agreed interim bodies and arrangements within the Council, in accordance with the current Treaty provisions.