

OCCASIONAL PAPERS

10

A DELICATE PROCESS OF PARTICIPATION:
THE QUESTION OF PARTICIPATION OF WEU
ASSOCIATE MEMBERS IN DECISION-MAKING
FOR EU-LED PETERSBERG OPERATIONS,
WITH SPECIAL REFERENCE TO TURKEY

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A DELICATE PROCESS OF PARTICIPATION: The question of participation of WEU Associate Members in decision-making for EU-led Petersberg operations, with special reference to Turkey

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INTRODUCTION

This paper analyses one of WEU's several types of membership, "Associate Membership", while addressing, in particular, the issue of participation of WEU Associate Members in the EU decision-making process for Petersberg operations. European Members of NATO which are not members of the EU (the Czech Republic, Hungary, Iceland, Norway, Poland, and Turkey) are Associate Members of WEU, with which they maintain a close relationship. This study focuses more specifically on Turkey's participation in EU-led operations, since this country's geographical and political position *vis-à-vis* the EU is unique, as will be discussed below.

The issue of participation of WEU Associate Members in the EU decision-making process for EU-led Petersberg operations came to the fore after the signing of the Amsterdam Treaty in 1997, when the Treaty inserted the Petersberg tasks into the Common Foreign and Security Policy (CFSP) framework and stipulated that the EU would avail itself of WEU to implement those tasks. Since they were not members of the EU, the WEU Associate Members would not have a say in the decision-making for such operations, which would be conducted by WEU at the request of the EU. The issue assumed a new dimension with the discussions that were raised by the British initiative on a common European defence and by the St-Malo Declaration of December 1998, about a possible EU-WEU merger. Finally, when the Cologne European Council of 3 and 4 June 1999 provided for such a merger, the issue was extended to the inclusion of the WEU Associate Members, not only in EU-led Petersberg operations but also in the new EU/CFSP framework that was to be established. This was significant in the sense that if the EU/WEU merger took place without any special arrangements for the involvement of WEU Associate Members in this new framework, it would inevitably lead to a diminution of their status and the rights that they had acquired accordingly. Therefore, the issue became more complicated and somewhat more delicate than it had been before.

A coherent security policy for a region, and especially for a continent, can only be established with the inclusion of all the significant security actors in the region. A holistic approach to European security, therefore, requires the participation of all European security actors in a framework such as that established by WEU. Accordingly, the argument put forward in this paper is that EU Member States should take the necessary measures to include all European security actors in the CFSP framework, naturally at different levels, according to their statuses, if they want to establish a genuine and effective European Security and Defence Identity (ESDI). This would also be the basic requirement for the establishment of what might be called a European Security and Defence Capability (ESDC).

In the first section of this paper, a general description of WEU "Associate Member" status will be given. Additionally, a thorough analysis of this status will follow, including information on the establishment and evolution of this status as well as a comparison between the three different WEU membership statuses, namely, Associate Member, Observer and Associate Partner. Operational development of WEU and Associate Members' involvement in this process will be stated briefly in the second section with a view to showing the bases and benefits of operational cooperation between the Associate Members and WEU. The third section will deal with the

position of Associate Members after the Amsterdam Treaty. Basic WEU declarations made after Amsterdam will also be examined and the issue of participation of WEU Associate Members in the EU decision-making process will be analysed in detail. The effects of the NATO Washington summit and the Cologne European Council will also be analysed in this section. Different options and future prospects will be set forth in the fourth section, which considers the position of the six Associate Members, and more specifically, Turkey. In this section, three different options for WEU Associate Members' participation in the EU decision-making process for Petersberg operations will be considered. The study will end with a conclusion stating the author's preference for the creation of a new Associate Member status within the EU/CFSP framework, in order to allow the fullest possible involvement of WEU Associate Members.

DEFINITION OF "ASSOCIATE MEMBER" STATUS IN WEU

“Associate Membership” is one of the four different types of member statuses in WEU which altogether constitute the “WEU family of nations”; i.e., the unique, flexible and multiple membership concept of WEU. Associate Members, namely the Republic of Iceland, the Kingdom of Norway and the Republic of Turkey, obtained this status through an invitation issued in the Declaration on WEU attached to the Maastricht Treaty in 1991 (Declaration No. 30), which called for the non-EU but NATO Member States to become WEU Associate Members. The Petersberg Declaration of 19 June 1992 and the Declaration on Associate Membership signed in Rome on 20 November 1992 established the guidelines of their status. Associate Membership became effective in 1995. Their status evolved in a clear and advanced framework through a number of ministerial declarations and by Permanent Council decisions. Hungary, the Czech Republic and Poland acquired this status following a decision taken by the WEU Permanent Council on 23 March 1999. Their status was confirmed by the “Declaration on the new Associate Members of the WEU; the Czech republic, Hungary and Poland” attached to the Bremen Declaration of the WEU Council of Ministers dated 10 and 11 May 1999.

Associate Members are not signatories to the modified Brussels Treaty (MBT); therefore, they are not endowed with the full membership rights designed by that treaty. Their status only consists of non-Article V activities; meaning that they are neither under Article V guarantee nor held responsible for Article V missions. However, they have the right to participate fully in the meetings of the WEU Council, its working groups and the subsidiary bodies under certain conditions¹. These conditions are:

- a) their participation should not prejudice the provisions laid down in Article VIII of the MBT; and,
- b) at the request of a majority of the Member States, or half of the Member States including the Presidency, participation may be restricted to full members.

Associate Members also have the right to speak and submit proposals but they do not have the right to block a decision that is the subject of consensus among the Member States. They are further associated with the Planning Cell through special arrangements, and they can nominate officers to the cell.

From the operational point of view, they take part on the same basis as full members in WEU military operations (as well as exercises and planning) to which they commit forces. They can also nominate Forces Answerable to WEU (FAWEU) on the same basis as full members. By virtue of being NATO members, the Associate Members are given the right to have a say in WEU operations in which they are interested, and they are directly involved in the planning and preparation of WEU operations in which NATO assets and capabilities are used within the framework of Combined

¹ WEU Petersberg Declaration, 19 June 1992.

Joint Task Forces (CJTF)². This gives WEU an important flexibility and effectiveness in its operational activities, in the sense that it may use NATO assets in a more practical way and have support from NATO's European Allies which are not full WEU or EU members. The contribution of such operational cooperation to the strengthening of NATO's European pillar and the ESDI goes without saying.

Associate Members are also connected to the WEU telecommunications system (WEUCOM). They are involved in the activities of the Satellite Centre, and they are regularly informed about WEU's space activities. With regard to the activities of the former EUROGROUP, now the Western European Armaments Group (WEAG), the Associate Members have full rights and responsibilities. This refers to full cooperation in the field of armaments, and, is again a natural consequence of the organisational link between WEU and NATO and the move towards the establishment of a European Security and Defence Identity. Turkey and Norway also participate in WEU Working Groups with decision-making "at" 13 and 16, such as the Transatlantic Forum, EUROCOM, EUROLONGTERM and Western European Logistics Group (WELG).

Associate Members' financial contribution to WEU budgets reflects their degree of involvement in WEU affairs. It should be noted, conversely, that the Observers and the Associate Partners are not required to make any financial contributions to the WEU budget (except for the military operations to which they commit forces). This responsibility, in a way, explains the difference between the Associate Member, and Observer and Associate Partner statuses with regard to their involvement in the decision-making process.

All these technical aspects are obviously related to the Associate Members' involvement in all non-Article V operations, so that the Petersberg tasks and these technical aspects are openly expressed in the Erfurt Declaration of 18 November 1997:

"The Council of Ministers welcomed the improved arrangements allowing Associate Members and Observer States to participate fully in accordance with their status in all Petersberg operations undertaken by WEU and tasked the Permanent Council to pursue its examination of possibilities for maximum participation in its activities by Associate Members and Observer States in accordance with their status, in particular in the fields of armaments, space and military studies."

A fairly detailed analysis of the documents which established the Associate Member status, and those that contributed to its evolution, follows. Furthermore, comparisons between the respective membership statuses in WEU will be made under the third sub-section. In the same sub-section will also be found brief definitions of the different types of WEU membership.

² WEU Contribution to the Intergovernmental Conference of 1996, (Madrid Ministerial Council, November 1995), p. 8.

Establishment of Associate Member Status

Upon their agreement on the need to develop a genuine European Security and Defence Identity and a greater European responsibility on defence matters, in Maastricht on 10 December 1991, WEU Member States established two new membership statuses within the WEU structure: Observer and Associate Member. Accordingly, in the second part of the Declaration No. 30 on Western European Union attached to the Maastricht Treaty (hereafter referred to as “Declaration No. 30”), WEU members proposed that states which were members of the EU were invited to accede to the WEU on conditions to be agreed in accordance with Article XI of the modified Brussels Treaty, or to become Observers if they so wished. They also declared that other European Member States of NATO (which were not EU members) were invited to become Associate Members of WEU in a way which would give them the possibility to participate fully in the activities of WEU.

The Associate Member status established by this invitation was significant in the sense that it would give all European members of the Atlantic Alliance the chance to participate in the development of a European Security and Defence Identity. Such an arrangement would certainly be useful for the development of WEU as a means to strengthen the European pillar of the Atlantic Alliance (as stipulated in the first part of Declaration No. 30) on a more solid and rational basis³.

Associate Member status acquired its final definition in the Petersberg Declaration of 19 June 1992. In this declaration, at Part III, WEU members defined the fundamental principles on which the relationship between Member and Associate Member States should be based. Members and Associate Members should settle their mutual differences by peaceful means, in accordance with their obligations arising from the modified Brussels Treaty, the North Atlantic Treaty and the UN Charter, their commitments under the terms of the Helsinki Final Act and the Paris Charter, as well as the other generally recognised principles and rules of international law. Members and Associate Members were also required to refrain from resorting to the threat or use of force in accordance with the UN Charter, in their mutual relations.

The second paragraph of Part III A of this declaration stressed that the security guarantees and defence commitments in the treaties which bind the Member States within WEU and NATO were mutually reinforcing and would not be invoked by those subscribing to Part III of the Petersberg Declaration in disputes between Member States of either of the two organisations⁴. To put it plainly, this clause was included to prevent the subscribing non-WEU member NATO countries and WEU full members from using the guarantees that they had under these organisations against each other in disputes between themselves.

The Petersberg Declaration entitled Associate Members to participate fully in the meetings of the WEU Council. However, their participation should not prejudice the provisions laid down in Article VIII of the MBT. Through the Petersberg Declaration,

³ According to 15 April 1997 WEU Permanent Council decision on the developments brought about by the NATO Summit in Berlin in 1996 which allowed the European Allies to use NATO assets in operations that they would undertake (using the Combined Joint Task Forces) without US involvement.

⁴ Although this clause is a general one addressing all members, it will not be wrong to guess that it is inspired by the Turkish-Greek dispute.

Associate Members acquired the right to participate fully in the Council's working groups and subsidiary bodies. Full members further set the conditions under which this right of full-participation could be used. At the request of a majority of the Member States, or half of the Member States including the Presidency, participation might be restricted to full members.

Associate Members could be associated to the Planning Cell through a permanent liaison arrangement, and they would have the same rights and responsibilities as the full members for functions transferred to WEU from other forums and institutions to which they already belonged. In fact, their participation in such functions was a natural consequence of their full membership in NATO, the UN and the CSCE (now OSCE) - as the three organisations endowed with the right to authorise WEU to take necessary measures for such functions.

Associate Members also obtained the right to speak in the meetings, but they could not use this right to block a decision that was the subject of consensus among Member States. At the same time, Associate Members were entitled to associate themselves with the decisions taken by Member States; and they would further be able to participate in their implementation unless a majority of the Member States, or half of the Member States including the presidency, decided otherwise.

The most important area of participation for Associate Members would be at the operational level, in the sense that they would take part on the same basis as full members in WEU military operations to which they committed forces. This decision not only opened the way for practical cooperation at the operational level but also provided a flexible and rational scope for non-Article V WEU operations. Associate Members' connection to WEUCOM for messages concerning meetings and activities in which they participated were established by the Petersberg Declaration.

Associate Members would have some responsibility with regard to their status (participation) in WEU, in that they would be required to make a financial contribution to the organisation's budgets (though less than the full members' contribution).

The Ministers of Foreign Affairs of WEU and those of the Republic of Iceland, the Kingdom of Norway and the Republic of Turkey met in Rome on 20 November 1992 to sign the Document on Associate Membership of the WEU which would make these three states "Associate Members of WEU". This was the final stage in the establishment of a new status within the WEU framework which started with the Declaration No. 30 mentioned above and was accelerated by two further steps, the Petersberg Declaration of 19 June 1992 and the subsequent invitation issued on 30 June 1992 by the German Minister of Foreign Affairs and the then Chairman-in-Office of the WEU Council.

The status given to the Associate Members by the Petersberg Declaration was reiterated in the Document on Associate Membership. This Document included additional statements on the participation of Associate Members in military operations, stating that this right might cover the provision of logistical and other facilities of a significant nature. For the operations that would be made upon decision of Member States, the arrangements for the participation of Associate Members in the

conduct of these operations would be established on a case-by-case basis by the participating states. The right to speak at meetings would include the possibility to present proposals, while full participation would include participation in caucuses subject to the same rules as for the meetings of the WEU Council.

As a reflection of the respect for the commitments of both the members and Associate Members under other treaties (such as the Washington Treaty), a clause on these commitments was also included, stating that the provisions of Associate Membership should not prejudice the rights and obligations deriving from existing treaties or agreements. The Document on Associate Membership also tasked the Council to take fully into consideration Associate Members' interests. Consequently, a requirement was stated that this document could not be modified without the assent of Associate Members.

In the Rome Meeting, the Presidency issued certain declarations stating that arrangements for a permanent liaison arrangement with the Planning Cell would be worked out with Turkey and any other Associate Members who so wish; that there would be full transparency among the full and Associate Members and that "timely information on restricted sessions would be given to that effect". Furthermore, upon a question by the Icelandic representative, the Presidency confirmed that the term "existing treaties or agreements" also referred to the Washington Treaty⁵.

The Rome Meeting was significant in the sense that it was the final official step in the establishment of "Associate Member" status. Associate Membership evolved in the meantime through some ministerial declarations and Permanent Council decisions, and acquired its present form.

Evolution of Associate Member Status

In order to attain further flexibility and effectiveness in coping up with the challenges, WEU members made gradual arrangements, building on the basic documents mentioned above. These arrangements were usually adopted at Ministerial Meetings or by Permanent Council decisions. Associate Member status was developed through such arrangements. A substantial step taken in this respect was the Kirchberg Declaration, which defined "Associate Partner" status.

Kirchberg Declaration involved a separate part for Associate Membership - Part III called 'Declaration Following from the "Document on Associate Membership" of 20 November 1994'. In fact, the Kirchberg Declaration did not entail any changes to the "Document on Associate Membership" adopted in Rome on 20 November 1992. However, WEU ministers agreed on important points that called for Associate Members' further involvement in the WEU decision-making process. Within this framework, they were given full rights in nominating FAWEU.

With the purpose of increasing WEU's planning capabilities and enabling WEU to draw more easily on Associate Members' expertise and resources for the tasks identified in the Petersberg Declaration, Associate Members were given the right to

⁵ Willem van Eekelen, *Debating European Security 1948-1998*, Centre for European Policy Studies, Brussels, SdU Publishers, The Hague, 1998, p. 139.

appoint officers to the Planning Cell. This constituted a further step than Associate Members' previous association to the Cell through liaison agreements upon the decisions taken at Petersberg and Rome.

A significant development brought forth by the Kirchberg Declaration was that the Council, while recognising the autonomy of the WEU Assembly, invited the Assembly, through its national delegations, to examine the arrangements for the participation of parliamentarians from Associate Member countries. Following this declaration, parliamentarians from Associate Member countries have been attending the Assembly sessions since their status became applicable on 6 March 1995.

In operational terms, WEU Ministers also confirmed at Kirchberg that in all questions concerning the security of forces committed for the operations in which Associate Members participated, there would be no distinction between the forces of Associate Members and those of full members.

The Noordwijk Declaration (14 November 1994) equally included references to Associate Member status. However, it was a political rather than a procedural or structural arrangement with regard to the degree of involvement of those countries in WEU affairs. The Declaration included an open expression on the Ministers' consideration that all the WEU nations (then 27) "should reflect in common on the new European security conditions, with due regard for the work already undertaken in order to arrive at common analysis of the problems, including those related to the stability and security of the Mediterranean Basin, with which they are faced and to reach agreement as to the appropriate responses". In fact, this statement was a reflection of the need felt for a holistic approach to be adopted in coping with the challenges posed by the new European security environment. Further, in the Noordwijk Declaration, at Paragraph 11 on the Associate Members' relations with WEU, Ministers reviewed the implementation process of the decisions taken at previous meetings and expressed their satisfaction on the progress made in this field.

The Birmingham Declaration of 7 May 1996 included similar statements in which the ministers recalled the previous decisions and documents on Associate Member status and reaffirmed their commitment to them. At the Ostend Ministerial Council on 19 November 1996, significant operational decisions were made which involved the "the creation of the Western European Armaments Organisation (WEAO)". With respect to this new development, Associate Members (as WEAG countries) were given the right to participate on an equal footing in WEAO activities.

The WEU Permanent Council agreed at its April 1997 meeting that all European NATO members which had not signed the MBT (Norway, Iceland and Turkey as WEU Associate Members and Denmark as a WEU Observer) could participate fully in WEU's decision-making process when WEU mounted an operation using NATO's operational assets to which those countries would be contributing⁶.

⁶ In fact, this decision could have been taken earlier but upon Greek opposition to Turkey's request to be associated in the preparation and planning of WEU operations using NATO assets, the NATO-WEU agreement on placing NATO assets at WEU disposal could not be reached until April 1997. Finally, Greece agreed to a French WEU Presidency compromise proposal. This proposal suggested that NATO members with WEU Associate Member or Observer (Denmark) status would be able to fully participate in WEU decisions concerning missions requiring the use of Alliance infrastructures; which

The Brussels and Erfurt Declarations of the WEU Ministerial Councils, issued on 22 July and 18 November 1997 respectively, also contributed to the further involvement of Associate Members in WEU activities. However, taking into account that these developments happened after the Amsterdam Treaty, they will be examined in the third section on the situation created by this Treaty. On the other hand, the accession of the Czech Republic, Hungary, and Poland to NATO in April 1999 led them to request Associate Member status in WEU, which was first *de facto* and then *de jure* obtained during this year.

The issue of multiple memberships of WEU

The flexible member statuses of WEU present different degrees of involvement in WEU affairs on the part of its members. Full members, in this respect, are the only ones who are party to the MBT and are subject to the rights and obligations arising from this treaty. Other types of membership are based on special arrangements between WEU and the related countries, as well as Ministerial Council and Permanent Council decisions, and are non-MBT statuses. Therefore, a definition of and a comparison between these non-MBT statuses would be helpful to give a clear vision of WEU membership. Associate Members, Observers and Associate Partners enjoy different rights in WEU, and, particularly, Associate Members do have some obligations in accordance with their status.

Observer status became effective in 1992 as soon as the parties agreed on it. However, Associate Member status gained effectiveness on 6 March 1995 when Greece became a full member of WEU. Meanwhile, the three would-be Associate Members were considered as active Observers to WEU. Associate Partner status was first introduced at the 22 November 1993 Luxembourg Ministerial Council Meeting, at which the Ministers discussed offering the Central and Eastern European Countries that had Europe Agreements with the EU Associate status. The Ministers tasked the Permanent Council to work out the content and modalities of such a status of association. Finally, Associate Partners were entitled to this status by the Kirchberg Declaration of 9 May 1994. Under a Document attached to this Declaration, their entitlements were specified and Associate Partnership replaced the Forum of Consultation that had been established on 19 June 1992.

As mentioned earlier, the term “flexible memberships of WEU” refer to the different degrees of involvement of WEU nations in WEU affairs in accordance with their respective statuses. The differences between those degrees of involvement can be stated as follows:

Participation in Council Meetings

Both Observers and Associate Members are entitled to participate in Council meetings, unless a majority of the full members or the half of the full members including the Presidency decide otherwise. However, while Associate Members have

would not be the case for operations that would be made without NATO assets. See Agence Europe Bulletin, No. 6956, 17 April 1997.

the right to speak formally, Observers can only speak upon request. Both of them may table proposals but they cannot block consensus or decisions by members.

Associate Partners can attend approximately half of Council meetings, and they may participate in discussions and propose topics, but they cannot block consensus or decisions by full members.

Participation in Working Groups

Except for the Security Committee, Associate Members can participate in all working groups, while, formally, Observers can participate by invitation only. Nevertheless, in practice, Observers can participate in working groups except for the Space Group and the Security Committee. On the other hand, Associate Members are further entitled to participate in meetings of the subsidiary bodies and the caucuses.

Associate Partners can only participate in working groups on a case-by-case basis and upon Council decision. However, they are informed - to a certain extent - about WEU activities in which they do not participate.

Participation in Working Groups at 13

Two Associate Members, Turkey and Norway, and, one Observer, Denmark, participate in a number of WEU working groups which result from the transfer of certain activities from the former EUROGROUP of 13 European NATO countries, namely Belgium, Denmark, France, Germany, Greece, Italy, Luxembourg, the Netherlands, Norway, Portugal, Spain, Turkey and the UK. All participating nations have full decision-making rights. Interested Observers and Associate Partners are also involved in some of these activities as a result of the decisions taken at the Erfurt Ministerial Meeting in November 1997. These groups are EUROLONGTERM, EUROCOM, WELG and the Council Working Group on the Transatlantic Forum. It should be noted that these are former Independent European Programme Group (IEPG) and EUROGROUP activities of NATO that were transferred to WEU in 1993. Their transfer is based on the decision of EUROGROUP Defence Ministers on 25 May 1992 and WEU's Petersberg Declaration. This transfer is realised on the condition that Norway, Denmark and Turkey share the same rights and responsibilities with WEU full members. With regard to the three new Associate Members, EUROLONGTERM, EUROCOM and the Transatlantic Forum are to be transformed to meet at 16, however their inclusion in the armaments groups such as WEAG will be decided at the Luxembourg Summit.

Links with the Planning Cell

Associate Members are entitled to appoint officers to the Planning Cell. In fact, this is a natural consequence of their NATO membership. Observers do not have an established link with the Planning Cell such as appointing officers, however, they are briefed by the Planning Cell on its activities and they can attend Military Delegates Group (MDG) meetings, including those reviewing Planning Cell activities. Associate Partners are given regular briefings on the Planning Cell's activities within the framework of their liaison arrangement.

Participation in Operations and Exercises

Associate Members can participate fully and on the same basis as full members in WEU operations, unless a majority of full members or half the Member States including the Presidency decide otherwise. They can further nominate FAWEU on the same basis as full members. In this respect Observers have had far less involvement, in the sense that they could participate on a case-by-case basis and upon consensus between members. This conditional involvement of Observers was a reflection of their neutral approach (except for Denmark) in their foreign affairs. However, their position with regard to Petersberg operations that take place under an EU mandate has changed significantly since the signing of the Amsterdam Treaty, and, now, they have obtained the right to participate in operations in which the EU avails itself of WEU.

Associate Partners can associate themselves with the decisions of Member States concerning Petersberg Tasks and they can participate in their implementation and in relevant exercises and planning, unless a majority of Member States or half the Member States including the Presidency decide otherwise. Furthermore, they have been asked to provide information on available forces, which is annexed to FAWEU lists.

Connection to WEU Communications Network

Only Associate Members are connected to the Member States' telecommunications system (WEUCOM) for messages concerning meetings and activities in which they participate. Observers and Associate Partners do not have this facility.

Financial contribution

Associate Members are asked to make a contribution to WEU budgets, but it is less than what the full members are supposed to give. On the other hand, Observers and Associate Partners are not required to make such a contribution, but, for the WEU operations in which they participate, they are required to contribute to common costs.

Former EUROGROUP/WEAG AND WEAO Activities

Associate Members have full rights and responsibilities with regard to WEU armaments activities; i.e., the activities of the former EUROGROUP/WEAG and the WEAO. Associate Partners do not participate in these activities, while Observers enjoy the right to attend Transatlantic Forum meetings as observers. Furthermore, Denmark, which is the only Observer State holding both EU and NATO membership, has a special arrangement within this framework, in that it participates fully in WEAG and WEAO activities. In the Erfurt Declaration, WEU Ministers included a statement that WEAG should be opened to interested Observers and Associate Partners. They have agreed on the modalities for the participation of interested WEU Observers in all WEAG meetings.

As comparisons made above reflect; Associate Members, by virtue of their full membership of NATO, enjoy some rights, such as full participation in the Planning Cell and WEAG/WEAO activities, which give them the opportunity to be more involved in WEU activities than Observers and Associate Partners. They also have an

obligation to contribute to WEU budgets, while the Observers and the Associate Partners are not required to make such a contribution. Observers, owing to their neutral status, are less involved in WEU activities. Nevertheless, Observer status gained a new framework under the Amsterdam Treaty in that Observers' full participation in EU-mandated WEU Petersberg operations is endorsed. Associate Partners as non-NATO and non-EU states have a looser framework of participation in WEU activities, which, nevertheless, gives them the opportunity to be informed about, and to participate - to a certain extent - in WEU activities.

OPERATIONAL DEVELOPMENT OF WEU AND ASSOCIATE MEMBERS' PARTICIPATION

WEU's initial response to the challenges of the post-Cold War era was the Maastricht Declaration (Declaration No. 30) and the Petersberg Declaration, which followed it. Through the Maastricht Declaration, WEU started a review of its identity in the post-Cold War era: establishing "its pivotal role between the EU and NATO"⁷. The Petersberg Declaration, on the other hand, not only emphasised WEU's new structural development, but it also defined new tasks for the organisation in order to strengthen its operational role. These tasks (commonly referred to as Petersberg tasks) are humanitarian and rescue tasks; peacekeeping; and tasks of combat forces in crisis management, including peacemaking.

These new assignments would give WEU the ability to respond flexibly and quickly to challenges such as internal conflicts with the potential of a spill-over, and, transnational challenges such as the proliferation of weapons of mass destruction, terrorism, organised crime and environmental hazards. In fact, assignment of all these tasks referred to a new emphasis on WEU's major area of action in the post-Cold War era: *crisis management*

The introduction of Petersberg Tasks was a parallel development with the new role assigned to WEU with the Maastricht Treaty and Declaration No. 30 - to develop the organisation as the defence component of the EU and as the means to strengthen the European pillar of the Atlantic Alliance.

The Petersberg Declaration provided for the establishment of a Planning Cell and creation of FAWEU to strengthen the organisation's operational role, especially with regard to Petersberg tasks that would be undertaken in the future. Decisions to use military units answerable to WEU would be taken by the WEU Council in accordance with the provisions of the UN Charter. Participation in specific operations would also remain a sovereign decision of Member States in accordance with their national constitutions. These provisions referred to all WEU operations in general, but they were most significant for Petersberg tasks in particular. With regard to Petersberg operations, the Declaration provided that the planning and execution of these operations would be fully compatible with the military dispositions necessary to ensure the collective defence of all Allies.

Military units would be drawn from the forces of WEU Member States and would be organised on a multinational and multi-service basis. They would also include forces with NATO missions after consultation with NATO. This statement later gained a more solid and wider basis with the introduction of the CJTF concept at the NATO Summit held on 10 and 11 January 1994 in Brussels, in the sense that CJTFs would not only involve European Allies' assets but also collective assets of the Atlantic Alliance. These arrangements acquired their operational basis at NATO's Berlin Summit on 3 June 1996, at which the NATO Allies decided to make the necessary

⁷ Jean Félix Paganon, 'Western European Union's Pivotal Role between the Atlantic Alliance and the European Union', in Anne Deighton (ed.), *Western European Union 1954-1997: Defence, Security, Integration*, European Interdependence Research Unit, St. Antony's College, Oxford, 1997.

NATO assets available to European Allies (thus, to WEU) when they needed to use them.

The Petersberg Declaration did not include specific provisions for the involvement of Associate Members in Petersberg operations. Rather, it included a general statement that they could take part on the same basis as full members in WEU operations to which they commit forces; meaning that these operations could also be Petersberg-type missions.

After Petersberg, WEU has proceeded in enhancing its operational capability and it has conducted some operations on the basis of the new guidelines set out in the declaration. Although the operations that it has undertaken since then have not been Petersberg tasks⁸, the operational capability that WEU has gained through these operations will certainly contribute to any future operations including Petersberg-type missions.

The Danube Embargo, Operation Sharp Guard, the WEU Police Unit in Mostar and Multinational Advisory Police Element in Albania (MAPE) were the operations that took place after Petersberg⁹. Although they were small-scale operations, they were a reflection of WEU's capacity to handle crises, and they have given the organisation operational experience which is of crucial importance in such missions. The link with NATO with regard to Operation Sharp Guard, which provided a single chain of command for separate NATO and WEU embargo operations¹⁰ off the coast of former Yugoslavia, also contributed to such experience.

Meanwhile, the WEU Demining Assistance Mission in Croatia (WEUDAM) was also launched in April 1999; being the first operation conducted by WEU at the request of the EU on the basis of Article J 4.2 of the Treaty on European Union and with EU

⁸ Petersberg Declaration, (Part II, paragraph 4) states that "military units of WEU Member States, acting under the authority of the WEU, could be employed for" the Petersberg tasks. Therefore, it is questionable whether the police operations made in Mostar and Albania can be regarded as Petersberg missions or not; in the sense that the Declaration only suggests "military units" and not police elements. However, the term "could be used" is not exhaustive and therefore, may well be interpreted as inclusive of other options such as use of police elements. The same holds true for the Danube Embargo and Sharp Guard operations in the sense that some sources refer to them as Petersberg-type missions to a certain extent. See WEU Contribution to the Intergovernmental Conference of 1996, p. 11 for such a reference. For further information on the issue, see footnote (9) below.

⁹ In fact, the decision on the intervention in the Yugoslav Crisis was made before the Petersberg Declaration, but its implementation process started after the Declaration, on 16 July 1992, when the Operation Sharp Vigilance began. The fields of this intervention were defined by the WEU Council on 28 August 1992 as: humanitarian aid, monitoring heavy weapons and embargo enforcement. In this sense, the aims of the operation corresponded with Petersberg tasks. At the WEU Council Meeting in Rome on 20 November 1992, Operation Sharp Vigilance became Operation Sharp Fence. Upon a joint meeting decision of WEU and NATO Councils, on 8 June 1993, joint operation Sharp Guard started on 15 June 1993. Operation Sharp Guard also responded to similar aims, but was not openly named as a Petersberg-type operation. Nevertheless, WEU Contribution to Intergovernmental Conference of 1996 includes the statement: "In the last years, WEU has successfully carried out several missions that fit in, in general lines, the missions defined at Petersberg (combined WEU-NATO operation in the Adriatic, WEU Embargo enforcement on the Danube and WEU Police operation in Mostar)". However, the Danube embargo was carried out by civilian customs authorities, and military forces were not used. Therefore, it is doubtful that it can be named as a Petersberg-type mission, since it did not include a military element (as explained in footnote 7). The same logic holds true for Mostar.

¹⁰ Maritime Guard (NATO) and Sharp Fence (WEU).

finance. The WEU Satellite Centre has also taken on a general security surveillance mission on the Kosovo region on the basis of the same article and contributed to the EU, OSCE and NATO humanitarian efforts there.

Although the Associate Members' involvement could only be observed at MAPE in Albania, it is predictable that they will bring greater capability and flexibility to WEU. Their involvement will serve as an assurance that WEU will not be a rival to NATO in any of its activities. As far as NATO is concerned, their participation will also contribute to the enhancement of the European Security and Defence Identity within the Alliance. Associate Members' participation in WEU operations further refers to a necessity in the sense that despite "all recent efforts taken to strengthen WEU's operational role, Europeans are still militarily dependent on NATO and US for all but small and nearby military operations"¹¹. This means that using NATO assets in any future WEU operations will depend on Norway's, Turkey's and Iceland's consent as well; and that it will be easier if they fully participate in such operations.

In the light of the changes posed by the Petersberg Declaration and the distance travelled since then, it can be concluded that the refinement of WEU's operational capability helped the organisation enhance its relevance in the post-Cold War era. Simply, it assumed the task to "ensure the political control and strategic direction of crisis management military operations that Europeans would decide to take collectively, and in which North Americans would not wish to participate directly"¹². WEU would most probably do so upon EU initiation and using NATO assets¹³. However, after the decision taken at the EU Cologne Summit for an EU/WEU merger, it seems that the EU will take on the task and use NATO assets if necessary. WEU Associate Members, even in view of the worst possibility that they might be excluded from EU decision-making in such operations, will still have a significant role in this respect, in that, as NATO members, they refer to an important contribution in operational capability and flexibility¹⁴.

¹¹ Phillip H. Gordon, 'Does Western European Union Have a Role?', in Anne Deighton (ed.), *Western European Union 1954-1997/ Defence, Security, Integration*, European Interdependence Research Unit, St. Antony's College, Oxford, 1997, p. 109.

¹² José Cutileiro, 'WEU: A Success Story', *NATO's Sixteen Nations*, Special Supplement: "WEU - 50 Years of European Security", 1998, Bonn, p. 8.

¹³ *Ibid.*

¹⁴ WEU Ministerial Council Declaration of 13 May 1997 (Paris Declaration) refers to this need of flexibility under such a statement: "Implementation of Petersberg tasks requires flexible modes of action that are geared to the diversity of crisis situations and make optimum use of existing capabilities."

WEU ASSOCIATE MEMBERS AFTER AMSTERDAM AND COLOGNE

The Amsterdam treaty included substantial provisions that would shape the Union's nature at the beginning of a new century. The second pillar of the Union, namely, the Common Foreign and Security Policy (CFSP), was one of the fields in which Member States made important amendments with "fundamental legal, political and military implications"¹⁵, not only for the EU itself but also for WEU. The Treaty of Amsterdam gave the CFSP a new scope and a wider framework, to include Petersberg missions and take steps towards a common defence policy, and thus to open the way for the possibility of WEU's future integration in the EU (Article 17).

Although EU Member States did not agree to integrate WEU in the EU at Amsterdam, they established a stronger institutional link between the two organisations. Under Article 17.3 of the Amsterdam Treaty, the EU Member States openly stated that the EU would avail itself of WEU to elaborate and implement decisions of the Union on the tasks referred to in paragraph 2 (i.e., Petersberg Tasks). In the same article it was further expressed that in cases where the EU availed itself of WEU, the European Council would establish the guidelines. This statement opened a new debate on WEU's autonomy in the sense that it had put WEU in a subordinate position with regard to the cases where the EU would avail itself of WEU¹⁶. Moreover, it brought forth some issues such as the involvement of WEU nations other than full members in such cases. These issues would certainly need additional arrangements not only by the EU itself but also by WEU.

Article 17.3, subparagraph 3, tasked the Council to adopt the necessary practical arrangements to allow all EU Member States contributing to the tasks in question to participate fully and on an equal footing in planning and decision-making in WEU. This would certainly be made in agreement with the institutions of WEU. The statement "all Member States" explicitly addressed the WEU Observers whose participation in WEU activities were previously confined to a case-by-case basis. The Observers' inclusion was significant in the sense that it also referred to the possibility of WEU's integration in the EU in the future. Such an inclusion would probably contribute to a solution of the problems that might arise during a possible EU/WEU integration. Naturally, the Amsterdam Treaty did not include any statements about the participation of WEU Associate Members and Associate Partners in such tasks. This was an arrangement which had to be made later, in consultation with the countries concerned and within WEU itself.

WEU's Brussels Declaration of 22 July 1997 openly confirmed the right given to the Observers by the Treaty of Amsterdam, stating that WEU would develop the role of Observers in WEU in line with provisions contained in Article 17.3, and would adopt

¹⁵ "WEU's role in the organization of European security after the decisions taken by the European Union in Amsterdam and by NATO in Madrid", Report submitted on behalf of the Political Committee by Mr. Blaauw, Vice Chairman and Rapporteur. Document 1581, 16 October 1997, Assembly of Western European Union, Paris.

¹⁶ For further information, see Martin Ortega, 'Some Questions on Legal Aspects', in Guido Lenzi (ed.) *WEU at Fifty*, Institute for Security Studies, Western European Union, Paris, 1998, pp. 1-13.

any necessary practical arrangements to allow all Member States of the EU contributing to the tasks undertaken by WEU at the request of the EU to participate fully and on an equal footing in planning and decision-making in WEU. The term “practical arrangements” - in a way - referred to the flexible membership statuses of WEU that could easily absorb *de facto* arrangements, especially on an operational basis.

In addition to the above-mentioned statements on Observers’ involvement in possible EU mandated operations, the 22 July 1997 Declaration included some statements on Associate Members’ involvement in such tasks. These statements stipulated that, with the aim of opening participation in all its operations to Associate Members and Observer States, WEU would examine the necessary modalities to allow Associate Members and Observer States to participate fully in accordance with their status in all operations undertaken by WEU. Moreover, WEU Ministers recalled that Associate Members took part on the same basis as full members in operations to which they contributed, as well as in relevant exercises and planning. The Declaration stated that WEU would examine the question of participation of the Observers as fully as possible in accordance with their status in planning and decision-making within WEU in all operations to which they contributed.

With regard to Associate Members’ and Observers’ participation in other fields of WEU activities, the declaration included the statement that WEU would, in consultation where appropriate with the relevant bodies¹⁷, examine the possibilities for maximum participation in its activities by Associate Members and Observer States in accordance with their status. In so doing, it would address, in particular, activities in the field of armaments, space and military studies. Meanwhile, Associate Partners’ participation was only mentioned in one paragraph, with the expression that WEU would examine how to strengthen the Associate Partners’ participation in an increasing number of activities. Although the 22 July 1997 Declaration included significant statements with regard to the participation of Associate Members in all WEU operations including those for which the EU would avail itself of the WEU, they were not found adequately indicative of their position with regard to EU-mandated operations by many critics¹⁸.

One of the criticisms¹⁹ was that Associate Members’ involvement in WEU operations, which would not include NATO assets, was questionable. Such operations could be conducted in two ways: either WEU would act upon the EU’s request, in which Associate Members would have no voice, or WEU would decide to act on its own behalf. The major argument in this criticism was that in both cases Associate Member countries would have only a limited voice in the decision-making process in WEU even if they wished to participate in the operation²⁰. It was also claimed that if the mission were to be carried out without using NATO assets, Observer Countries

¹⁷ Here, the term “relevant bodies” may well be interpreted as addressing the EU besides other alternatives.

¹⁸ See Blaauw, footnote (15).

¹⁹ *Ibid.*, p.11.

²⁰ Nevertheless, attention must be paid to the fact that the Erfurt Declaration included clear statements on the issue of Associate Members’ participation in such operations. It should also be noted that Mr. Blaauw’s Report was submitted before the Erfurt Declaration.

would consequently have a better position in the WEU than Associate Members²¹. In fact, these critics missed the point that, in operational terms, the Associate Members' involvement in operations to be carried out at the EU's request would not necessarily involve such serious exclusion as to consider it a "worse position" in their terms; even if such operations were made without the use of NATO assets (this point will be analysed below).

The so-called ambiguity felt with regard to the Associate Members' position in the new situation created by the Amsterdam Treaty was partly removed by the Erfurt Declaration, which included the statement: "Ministers welcomed the improved arrangements allowing Associate Members and Observer States to participate fully in accordance with their status in all Petersberg operations undertaken by WEU and tasked the Permanent Council to pursue its examination of possibilities for maximum participation in its activities by Associate Members and Observer states in accordance with their status, in particular in the fields of armaments, space and military studies". This simply meant that arrangements had been made and were being made for the full participation of both Associate Members and Observers in all Petersberg operations, in accordance with their status. The phrase "in accordance with their status" was significant in the sense that it referred to the distinction between the two statuses and the different degrees of involvement in WEU operations. At this point, a comparison between Associate Member and Observer statuses after Amsterdam could be made. In fact, this referred to a new issue for debate, since many analysts claimed that the distinctions between the various WEU member statuses were getting blurred so that they gradually got closer to each other²². However, it should be noted that the prospects for the further involvement of Observer states - given their neutral status and thus, non-membership in NATO - in WEU activities remained limited despite the prospect of an EU/WEU merger²³.

Before the Cologne Declaration, it seemed more likely that the Associate Members' practical involvement in EU-led WEU operations would take place without any major problems, although some questions might arise due to the issue of political direction. Both the 22 July 1997 and Erfurt Declarations mentioned the Associate Members and Observers in a single statement where their further involvement was concerned. Nevertheless both declarations contained the phrase: "in accordance with their status". The Erfurt Declaration was significant in the sense that it included more expressive terms with regard to Associate Members' involvement.

The European security debate assumed a new course with the shift in the British government's foreign policy that took place in autumn 1998. The British government withdrew its longstanding veto over a possible EU/WEU merger and put forward a proposal on the development of an EU defence capability allowing Member States to assemble and deploy troops in rapid response to crises²⁴. The subsequent St-Malo

²¹ See Blaauw, footnote (15), p. 11.

²² "Security in a Wider Europe - Reply to the Annual of the Council", Report submitted on behalf of the Political Committee by Mr. Antretter, Rapporteur, Document 1602, 28 April 1998, Assembly of Western European Union, Paris, p. 19, paragraph 84.

²³ Although such a merger is provided by the Cologne Declaration, it is still doubtful whether the Observers will ask for a change in their neutral status.

²⁴ For further information on this issue and the St-Malo Declaration, see, Richard G. Whitman, "Amsterdam's Unfinished Business", Occasional Papers, No. 7, Western European Union Institute for Security Studies, January 1999, Paris.

Declaration made jointly by France and the UK on 4 December 1998 became another important step that paved the way for the decisions taken at the Cologne European Summit of June 1999.

The debate on a possible EU/WEU merger that the British initiative and the subsequent St-Malo Declaration started, engendered some questions related - directly or indirectly - to the involvement of Associate Members in the new European security and defence structure that would replace WEU. What would be the position of WEU Associate Members? How could they be linked militarily to a union that they might never join?²⁵ An EU/WEU merger that took place without any arrangements for the involvement of the WEU Associate Members in the EU/CFSP framework, would inevitably lead to the loss of the rights that they acquired due to their status in WEU

Perhaps taking this into account, the US government declared its support for the European defence initiative, stressing, however, that it should not be at the expense of NATO and its non-EU European members. US Secretary of State Madeline Albright repeatedly referred to three conditions in this respect: that the EU members should avoid decoupling, duplication and discrimination in putting this initiative into action²⁶. One of these “three Ds”, discrimination, was significant in the sense that it reflected the US view on the questions mentioned above. According to this D, the non-EU European members of NATO should not be excluded from the efforts for the establishment of a European defence capability and any kind of arrangement that will be made thereafter.

The European Council in Vienna welcomed the new impetus given to the debate on a common European policy in security and defence, welcoming the St-Malo Declaration. The Vienna European Council was significant in the sense that it was the first EU summit convened after the shift seen in British foreign policy and the St-Malo Declaration. Nevertheless, this European Council left the important decisions on European security and defence to the Cologne summit. Therefore, it did not address the details such as the issue of participation of WEU Associate Members.

The Washington Summit Communiqué of NATO issued on 24 April 1999 and the Alliance’s new Strategic Concept approved on 23 and 24 April 1999 included substantial statements about the new European defence initiative and the participation of non-EU European Allies in this framework. In the Washington Summit Communiqué, the Allies announced that they welcomed the new impetus given to the strengthening of a common European policy in security and defence by the Treaty of Amsterdam and the reflections launched since then in WEU and, following the St-Malo Declaration, in the EU. They stressed that this was a process which had implications for all Allies. This statement explicitly revealed that the issue would have wider implications also for EU members. Emphasising this point, the Allies stressed that NATO and the EU should ensure the development of effective mutual consultation, cooperation and transparency, building on the mechanisms existing between NATO and WEU. A natural complement of this provision was the Allies’ emphasis on the situation of non-EU European NATO members. In this regard, the Allies stated that they attached “the utmost importance to ensuring the fullest possible

²⁵ “Leader: Eurodefence”, Financial Times, 23 October 1998.

²⁶ See several Financial Times issues published after the launch of the British initiative and St-Malo Declaration, including the one published on 7 December 1998.

involvement of non-EU European NATO Allies in EU-led crisis response operations, building on the existing consultation arrangements within the WEU". The phrase, "the fullest possible involvement of non-EU European Allies" reveals the Allied view that these developments should not take place at the expense or mean the exclusion of the countries concerned from a future European defence capability. In view of the rights conferred on WEU Associate Members due to their status, the statement suggested that their involvement should be "built on existing consultation arrangements within the WEU". This can be interpreted as a clause that aims at the protection of the rights of the Associate Members that they acquired within the WEU framework.

Similarly, the Alliance's new Strategic Concept stressed that the EU had taken important decisions and given further impetus to strengthening its security and defence dimension. The Strategic Concept further stated that this process would have important implications for the entire Alliance, and that all European Allies should be involved in it, building on arrangements developed by NATO and WEU. This statement indicated that the non-EU European Allies should not be excluded from any future European security and defence structure, and that all the necessary steps should be taken on the basis of the arrangements already made by NATO and the WEU. It would not be wrong to contend that the arrangements mentioned here refer also to WEU Associate Member status. Within the context of the title "The European security and Defence Identity" in the Strategic Concept, the Allies reiterated that the development of an ESDI would require close cooperation between NATO and WEU and, if and when appropriate, the EU. The Allies suggested that this would enable *all* European Allies to make a more coherent and effective contribution to the missions and activities of the Alliance as an expression of the Allies' shared responsibilities. It would reinforce the Transatlantic partnership and it would assist the European Allies to act by themselves as required through the readiness of the Alliance, on a case-by-case basis and by consensus, to make its assets and capabilities available for operations in which the Alliance was not engaged militarily under the political control and strategic direction of the WEU or as otherwise agreed, taking into account the full participation of all European Allies if they were so to choose. This suggestion also used the terms "full participation" and "all European Allies". This implicit reference undoubtedly addresses the issue of participation of all non-EU European Allies in the developments that will follow efforts to create a common European defence capability.

It is interesting to note, however, that WEU members did not explicitly address this issue in their Bremen Declaration of 11 May 1999. The WEU Ministers were heavily criticised for being apparently unable to agree on a text, which would have clearly stressed the importance of the full participation of Associate Members in any arrangements which might become necessary²⁷. The basic fact lying behind these criticisms was that the WEU Ministers chose a vague wording and only stated that the development of a European security and defence would "serve the interests of all WEU nations". These vague statements led to the conclusion that the WEU Ministers left it up to the European Council "to determine more precisely the status of the countries concerned"²⁸.

²⁷ "WEU after the Washington and Cologne Summits – reply to the Annual Report of the Council", report submitted on behalf of the Political Committee by Mr. Baumel, chairman and rapporteur, Document 1652, 10 June 1999, Assembly of Western European Union, Paris, p. 17, paragraph 68.

²⁸ *Ibid.*

On the other hand, in the “Declaration on the new Associate Members of WEU” attached to the Bremen Declaration, the WEU ministers recalled the essential importance of full participation, in accordance with their status and relevant documents, of Associate Members in all aspects of the preparation, planning and conduct of WEU Petersberg operations. This statement was significant since the answer to the major question asked before the possibility of an EU/WEU merger came to the fore, in a sense, in this declaration. This statement called for the full participation of Associate Members in WEU Petersberg operations without making any distinction between the operations that would be carried out upon EU request and under the political control of the EU and those using NATO assets. This could be regarded as an important development if the issue remained confined to the participation of Associate Members in decision-making for EU-led WEU Petersberg operations, without the consideration of an EU/WEU merger. Nevertheless, the Bremen Declaration as a whole fell short of addressing the new questions on the status of Associate Members.

Built on the developments achieved after the launch of the British initiative on common European defence, and by the St-Malo Declaration, the Cologne European Council of 3-4 June 1999 was the first official EU step taken towards a EU/WEU merger. The European Council declared its intention to give the EU the necessary means and capabilities to assume its responsibilities regarding a common European policy on security and defence. With this intention, the European Council tasked the General Affairs Council to prepare the conditions and measures necessary to achieve the objectives set out in the Declaration, including the arrangements for the inclusion of those functions of WEU which would be necessary for the EU to fulfil its new responsibilities for Petersberg tasks. The European Council set the time limit for the completion of the necessary arrangements as the end of 2000. Upon completion of those arrangements, WEU, as an organisation, would have completed its purpose. This statement was the most important part of the Cologne European Council Declaration, since it openly announced the demise of WEU as an organisation by the end of the year 2000. In that event, the alliance between the ten full members of WEU would remain the foundation of the collective defence of its Member States. Therefore, the collective defence guarantee (Article V) of the MBT would not be affected by this demise. The neutral status of some of the EU members would not be affected either, since the EU would only take on the non-Article V functions of WEU that it mostly performed in the area of crisis management, and thus Petersberg tasks.

Concerning the WEU Associate Members, the European Council only stressed that arrangements that would allow the non-EU European Allies and partners to take part to the fullest possible extent in this new framework would be put in place. It should be noted that the phrase “to the fullest possible extent” used in this declaration was the same as that used by NATO in its Washington Communiqué. This, in a sense, was a reflection that the EU members had views parallel to those of the NATO Allies. Nevertheless, this phrase was not open enough to describe the future status of the WEU Associate Members in the new framework that would be established.

The Presidency Report on Strengthening of the Common European Policy on Security and Defence approved and adopted by the European Council in Cologne was not adequately indicative of the new status that WEU Associate Members would acquire.

The Presidency Report made clear that the development of an EU crisis management capacity was to be seen as an activity within the framework of the CFSP. This statement put an end to the debate on the establishment of a fourth pillar for European defence. It further demonstrated that any arrangement, including those that would address the issue of participation of WEU Associate Members that would be made in this field, would take place within the CFSP. The Presidency Report determined five requirements for the successful creation of a European policy on security and defence. Two of these requirements concerned the involvement of non-EU European Allies:

- satisfactory arrangements for European NATO members who are not EU Member States to ensure their fullest possible involvement in EU-led operations, building on existing consultation arrangements within WEU,
- arrangements to ensure that all participants in an EU-led operation will have equal rights in respect of the conduct of that operation, without prejudice to the principle of the EU's decision-making autonomy, notably the right of the Council to discuss and decide matters of principle and policy.

The first requirement was the same as the one provided by the Washington Communiqué and the Cologne European Council Declaration. The phrase “building on existing consultation arrangements within WEU” has been a significant indication that the WEU Associate Members' current status would be taken into account in any future arrangement that would be made for their fullest possible involvement in EU-led operations. The second requirement, on the other hand, included a clearer picture of the operational aspect of the issue. Without naming a specific group of countries or a specific country, the Presidency suggested that arrangements should be made to give equal rights to all participants in an EU-led operation. “All participants” is meaningful: it clearly shows that the operational aspect of the issue will not involve serious limitations with regard to any state which is willing to participate in EU-led operations. It can be said that the operational aspect of the issue seems to be the least problematic part. Only the “rules of engagement” determined on a case-by-case basis would suffice, in this respect, without engendering critical requirements for an institutional arrangement.

The Cologne Declaration has been criticised by many analysts, since it merely provided “satisfactory arrangements to ensure the fullest possible involvement in EU-led operations of non-EU European members of NATO”²⁹. The Rapporteur to the Assembly of WEU, Mr Jacques Baumel has contended that the EU did not provide Associate Members with any guarantee as to the full preservation of the rights they currently enjoyed within the WEU Council, its subsidiary bodies and the Assembly³⁰. Mr Baumel considered that, since the European crisis management activities would be conducted within the framework of the CFSP and since only EU members were entitled to participate in the CFSP, there was no reason to believe that the EU would be prepared in the future to meet for CFSP purposes in a configuration similar to that of WEU (i.e. its flexible memberships).

²⁹ See Baumel, footnote (27) above, p.18, paragraph 69.

³⁰ *Ibid.*, paragraph 70.

These criticisms have some truth in them. It seems clear that the non-EU European NATO members will inevitably lose some (or all) of the current rights that they enjoy in WEU if the EU does not provide them with a guarantee as to the full preservation of these rights. This will not only mean a loss on the part of WEU Associate Members, but it will also cause a new division in Europe along security lines. Therefore, EU members should be cautious and try to give substance to their reference to “fullest possible involvement of non-EU European NATO members”, by inventing a structure that would adequately replace WEU’s functions in this respect.

On the other hand, the operational side of the issue does not seem that ambiguous. Any operation carried out with the use of NATO assets will need the approval of the non-EU NATO members. As mentioned above, in view of operations within the EU/CFSP framework, the Presidency Report openly states that all participating nations will have equal rights with the EU members in the conduct of such operations, as long as they do not act at the expense of the EU’s decision-making autonomy. Therefore, the situation is not so ambiguous even with regard to the EU-only operations that will be conducted without the use of NATO assets. This clause is not only relevant for the WEU Associate Members but also Associate Partners.

Furthermore, the conduct of a large-scale EU operation without the use of NATO assets seems a remote possibility, since the EU itself has confined the range of its Petersberg-type tasks to small-scale and secondary operations. What is more, the inability of EU members to agree on large-scale issues such as the Bosnian and Kosovo crises are important clues suggesting that the EU members will undoubtedly need NATO support, if not leadership, in such operations. Another point to be stressed here is that in an operation strictly within the confines of the CFSP framework, without the involvement of NATO assets and non-EU European Allies, there might be a sudden shift in the situation which might necessitate the use of NATO assets. Therefore, the worst scenario to be put forward, “the exclusion of non-EU European NATO members from such an operation”, might well result in an urgent need for the use of NATO assets that would depend on their approval in the end. This worst-case scenario shows the unlikelihood of the total exclusion of WEU Associate Members from such operations.

However, one question remains. Despite this operational clarity, the issue of political guidance still remains blurred. For small-scale operations, political guidance may not matter much. On the other hand, for a large-scale operation in which the participants’ interests would be heavily involved, political guidance would matter to a certain extent. One may surmise that the possibility of such a large-scale operation to be handled by WEU or the EU alone (without any NATO involvement - in terms of assets or a joint operation) is really small. Nevertheless, this does not overshadow the need for a political solution to the problem in terms of WEU Associate Members’ involvement in decision-making for Petersberg tasks that will be undertaken by WEU upon EU request or by the EU itself in the future. A political solution to the issue can also contribute to the enhancement of the ESDI and strengthen the holistic approach to handling European issues.

DIFFERENT OPTIONS AND FUTURE PROSPECTS, WITH SPECIAL REFERENCE TO TURKEY

The developments that have occurred since the launch of the British initiative and the Cologne Declaration on a common security and defence policy have led to a significant change in the current European security and defence structure. The debate on what may be called the issue of participation of WEU Associate Members in the decision-making process for EU-led Petersberg operations has, therefore, been extended to the question of their inclusion in the new EU/CFSP framework. Would the status of Associate Members and the rights that they have acquired within WEU be preserved? Would they be required to agree to a lesser status?

The answer to these questions can only be found in the future policies that will be developed within the EU itself and the arrangements that will be made between the EU and NATO to fill the gap that will be left by the demise of WEU and the role that it played as a link between the two organisations. Therefore, it will not be wrong to contend that it is neither the task of WEU nor completely in its competence to search for solutions to this issue³¹. It is obvious that WEU will have a limited area of action in such a process. Nevertheless, WEU can at least recommend some solutions or create some practical arrangements before its possible disappearance, to facilitate the involvement of its Associate Members in the future European security and defence framework.

A thorough analysis of the situation is not required in order to guess that the issue of involvement of WEU Associate Members in the new EU/CFSP framework is of great concern, especially for Turkey. The significant difference of approach observed between Turkey and the other Associate Members can be summarised as follows: it seems that the political involvement of Iceland and Norway in such operations does not matter much as long as they are fully informed on developments³². Iceland's unique position - it does not have any armed forces - gives it greater flexibility in its approach to the issue. Furthermore, these two countries have no intention to become EU members, for the time being. Therefore, in principle, they are not keen on having a relationship with the EU in that regard. A solution which would - in a way - mean their entrance into the EU via the backdoor³³, so to speak, is not in their interest.

When it comes to the new three Associate Members, the Czech Republic, Hungary, and Poland, three countries with a clear prospect of EU full-membership, they clearly

³¹ It should be noted that the expressions that Mr. Antretter included in his Draft Recommendation in his Report (Document 1602), in paragraph (viii): "Hoping that the intention announced by the European Union in the Amsterdam Treaty of developing closer institutional relations with WEU will lead to enhanced participation of all WEU nations and organs in the activities of the CFSP" was not accepted by the Assembly. It was changed in such a way: "..... will lead to enhanced participation of WEU in the activities of the CFSP." This also shows that the issue of inclusion of all WEU nations in CFSP is something purely institutional and refers to EU's autonomous decision, after all.

³² Interviews with Icelandic and Norwegian Delegates, NATO Head Quarters, 2 June 1998, Brussels.

³³ These countries are already involved in the European Economic Area. Therefore their involvement in one way or another in the CFSP may be regarded as their entry from the backdoor.

do not have to worry about total exclusion from EU affairs. Nevertheless, any arrangement that will provide them with the means for further involvement in the EU/CFSP framework in this transitional period, before their full membership of the EU, will undoubtedly contribute to their capabilities for interoperability and harmonisation with the EU in this field.

For the “other” Associate Member, Turkey, the issue is more complicated. Lacking the prospect of full membership of the EU, and being geostrategically located in a difficult neighbourhood close to the major areas of crisis which might constitute potential zones for the exercise of Petersberg missions, Turkey apparently has different concerns.

“What NATO identifies as major risks and threats can be found in the areas surrounding Turkey: proliferation of weapons of mass destruction, religious fundamentalism, illicit arms and drugs trafficking, political unrest, international terrorism and mass movement of refugees. Therefore, in this changed strategic environment, Turkey is concerned with suggestions of regional solutions or of the predominance of non-Article five operations. Turkey is not a country in the central part of Europe that enjoys the safety and security of its borders.”³⁴

This statement clearly points out Turkey’s grounds for seeking further involvement in all European security arrangements³⁵. In the light of these facts, it can be said that participation in the planning and implementation of all Petersberg-type operations that could take place in these major troubled areas is of great importance for Turkey - not only as a NATO ally, but also as a regional actor whose interests will inevitably be affected by further developments. Therefore, it will not be hard to guess why Turkey’s concerns in its participation in the decision-making process of EU-led WEU operations or any future arrangements that are made within the EU/CFSP framework are more expressly put forward when compared with other WEU Associate Members’ views on the issue.

Turkey’s delicate situation with regard to its quest for EU membership adds another dimension to the issue. Its exclusion from the EU enlargement process by the 11-12 December 1997 Luxembourg European Council made the matter even more complicated. It should be noted that although it was confirmed by the European Commission in Agenda 2000 that the ten candidates for EU membership, together

³⁴ “The Transatlantic Alliance: Turkey’s Perspective”, A summary of the speech delivered by Deputy Chief of the Turkish General Staff General Çevik Bir, at Istanbul NAI Congress, May 1-3, 1998, in *CIDC Insight Turkey*, No. 17, June 1998, p. 23.

³⁵ On the same grounds, Turkey’s membership in NATO has gained a new scope in the post-Cold War era. After years of being the southern pillar of the Alliance against the Soviet threat, Turkey’s position in the Alliance has acquired a new emphasis as it became a strategic Ally in extending peace and stability to the troubled areas mentioned above. The leading role that Turkey took in combining the Balkan states’ efforts to create a peacekeeping unit within the PfP framework, which led to an agreement in principle to form a Southeastern Europe Multinational Peace Force with Albania, Bulgaria, Greece, Italy, FYROM, Romania and Turkey is an example of its contribution to the establishment of peace and security in the area. The PfP Training Center that was opened in Ankara in June 1998 is another platform on which NATO (particularly, Turkey) shares its experience with the Balkan and Central Asian Countries. For further information, see *ibid.*

with Cyprus, fulfilled the criteria for full participation in the CFSP, the question of Turkey's possible participation in CFSP activities was not even mentioned³⁶.

Upon Turkey's protests against its exclusion from the EU enlargement process and its being treated according to different criteria, even for its participation in the European Conference, the EU Ministers decided to invite Turkey to the Conference without imposing any conditions. However, Turkey declined to participate in such a conference, which it regarded as "a consolation prize lacking real substance"³⁷. What is more, Turkey's decision not to discuss political issues with the EU made relations very tense for some time. Even the Turkey-EU Association Council, which would have been held to discuss the customs union in May 1998, could not convene, for the same reasons.

Nevertheless, the latest developments reflect a shift in the negative course of relations caused by the Luxembourg summit. The informal EU summit of early September 1999 and the speech given by the Turkish Foreign Minister Ismail Cem on 14 September 1999 to his colleagues in the EU were important steps with positive implications on EU-Turkey relations. There are hopes on Turkey's part that this positive process might even lead to an EU declaration at the forthcoming Helsinki European Council that Turkey would be accepted as a candidate for full membership of the EU, and that it would be given a pre-accession strategy. However, it is hard to predict if Turkish hopes will be realised at Helsinki. What is more, if it happens, the EU's recognition of Turkey as a candidate for full membership in the EU may only mean the confirmation of an already existing legal fact, which is a natural consequence of its Association Agreement with the EU. Even such confirmation may not change another important fact: that Turkey's full membership of the EU will still remain a remote possibility.

In these circumstances, the issue of participation of WEU Associate Members in the future EU/CFSP framework becomes especially significant for Turkey compared with other Associate Members. This issue has been of concern for many analysts. Some even put forward interesting solutions proposing special ties between Turkey and the CFSP, along the lines of the NATO-Russia Joint Council³⁸. However, it remains hard to understand how such analysts can regard a key NATO ally that constituted the southern flank of Europe against the Soviet Union during the Cold War as belonging to the same category as the major power which threatened Europe for almost forty five years. This would not only be the devaluation of Turkey to the status of an old adversary but also a reflection of the logic that sees Turkey as the "other" rather than the partner (if not a member) of Europe. As a committed member of the Alliance and an Associate Member of WEU, Turkey deserves, at least, to be treated as a respectable NATO Ally.

The different concerns of WEU Associate Members reflected above does not, and should not, overshadow the common need for a satisfactory arrangement which would allow them to participate in the EU/CFSP framework. A solution should enable all

³⁶ For further information see, Antretter, footnote (22), p. 12, Paragraphs 43, 44.

³⁷ See various Turkish daily newspapers, especially Turkish Daily News issued in December 1997, January, February and March 1998.

³⁸ Peter Schmidt, "Neuorientierung in der Sicherheitspolitik?" Stiftung Wissenschaft und Politik, January 1999, p. 17.

Associate Members to continue to enjoy the full rights that they acquired in WEU and be more closely tied to the CFSP if they cannot be fully integrated in this pillar. What kinds of arrangements can contribute to such a solution? Three options can be put forward in this respect, offering different levels of satisfaction from the minimal to the maximal:

1) *A unilateral decision by WEU Associate Members*: WEU Associate Members can unilaterally associate themselves with the decisions taken within the CFSP framework on a case-by-case basis. This would mean that they would accept EU guidance from the beginning, so that ‘political control’ would not matter any more. This would give the Associate Members the legal framework to explain (or justify) their option (i.e., their involvement in such an operation) to their people and in the international arena. Operationally, it would refer to full participation in the sense that each operation has its own contract (or rules) of engagement and it is decided by all the participants in any case³⁹.

However, this approach would have several drawbacks. One of these is related to a cost-benefit analysis on the part of Associate Members in associating themselves in such operations. “... it needs to be generally understood that no state that is excluded from policy making on a security problem will be willing to commit forces to its implementation.”⁴⁰ This statement by Kori Schake, Amaya Bloch-Lainé and Charles Grant reflects such a cost-benefit analysis in the sense that those states concerned may not find it suitable to associate themselves with some security decisions in which they do not have a say. A more peculiar handicap related with this general point is that some decisions taken in the CFSP framework might change in time, and the Associate Members might find it hard to harmonise their interests with it. Since they would not have a voice in the decision-making, there would always be a risk that the situation could end up with consequences that might be undesirable for them.

Despite the drawbacks, this option can be seen as an interim solution on the way towards increased convergence. Predictably, the EU would not object to such a solution since it would not affect its autonomous decisions and would provide substantial support from the European NATO Allies, giving its interventions greater legitimacy. Nevertheless, it would be wiser if this solution could be regarded as a transitional one that might (and should) lead to an institutional arrangement.

2) *An arrangement between NATO and the EU*: When the issue was one of the participation of WEU Associate Members in EU-led Petersberg operations that WEU would conduct, an arrangement was to be made between the EU and WEU on the issue. The statement, in the 22 July 1997 Declaration, that WEU would, in consultation with *the relevant bodies*, examine the possibilities for maximum participation in its activities by Associate Members and Observers, in accordance with their status, referred to such a situation. The term “relevant bodies” could well be interpreted as addressing the EU and referring indirectly to the possibility of an arrangement to be made between WEU and the EU to settle the issue.

³⁹ For example: Operation Alba was neither a WEU nor an EU initiative, but an act of coalitions of the willing and it had its own contract of engagement. Bulgaria joins the WEUDAM within a similar framework.

⁴⁰ Kori Schake, Amaya Bloch-Lainé and Charles Grant, “Building a European Defence Capability”, *Survival*, Vol. 41, No. 1, Spring 1999, p. 37.

Nevertheless, with the extension of the problem to a wider setting, which includes the participation of Associate Members in the new EU/CFSP framework that will take on the crisis management tasks of WEU, this option has also gained a different context - different in the sense that the new arrangements would have to be made between the EU and NATO instead of the EU and WEU.

NATO's Washington Communiqué provided for the development of effective mutual consultation, cooperation and transparency between NATO and the EU, building on the mechanisms existing between NATO and WEU. Furthermore, the allies announced that NATO stood ready to define and adopt the necessary arrangements for ready access by the EU to the collective assets and capabilities of the Alliance, for the operations which the Alliance as a whole was not engaged militarily as an Alliance. NATO members tasked the Council in Permanent Session to approve the arrangements for the establishment of an institutional link between the EU and NATO which would facilitate EU access to NATO capabilities and assets. With the demise of WEU as the organisation that provided the link between NATO and the EU, these two organisations will inevitably need new arrangements to establish the required consultation, co-operation and transparency.

At the discussions that will be made for these arrangements between the EU and NATO, the status of non-EU European Allies may well be considered, and methods to help them retain their rights stemming from Associate Membership in WEU found. NATO's new Strategic Concept also refers to such arrangements, and stresses that, in operations that the European Allies carried out by themselves, using NATO assets and under the political control and strategic direction of WEU or as otherwise agreed, the full participation of all European allies, if they were so to choose, would be taken into account. The phrase "as otherwise agreed" implicitly addresses the EU or coalitions of the willing. Such wording makes an arrangement made between the EU and NATO on the modalities for the participation of non-EU European Allies a distinct possibility. However, there exists one pitfall: that such arrangements could only be confined to operations in which the EU used NATO assets. Therefore, this might mean their exclusion from EU-led operations which do not use NATO assets.

An arrangement made between the EU and NATO on the involvement of non-EU European Allies in operations within the EU/CFSP framework, would not only have institutional implications, but also operational consequences. The same operational solutions mentioned in the first option would also be relevant for this option.

3) *A new Associate Membership within the EU/CFSP framework*: The ideal solution to the problem would undoubtedly be the establishment of an Associate Member status - similar to that of WEU - within the new EU/CFSP framework, to be offered to WEU Associate Members. The phrase repeatedly referred to in both the Presidency Report adopted by the Cologne European Council, NATO's Washington Communiqué and the Alliance's new Strategic Concept, "building on existing consultation arrangements within WEU", gives significant clues as to the future nature of relations between the EU and the non-EU European Allies. As the existing nature of relations between WEU and the non-EU European Allies is called "Associate Membership", the same idea may constitute a model for the future type of

relations between the EU and the Allies concerned. Such Associate Membership within an EU/CFSP framework could be beneficial for both sides, since the important platform provided by WEU through its flexible memberships for consultation and joint action by all European security actors would be preserved and WEU Associate Members would not lose the rights that they acquired due to their status in WEU. This solution is along the same lines as Barry Buzan and Thomas Diez's recent proposal⁴¹. Their concern is that Turkey should be placed "on the 'cognitive map' of the EU's decision-makers", and that Turkey participate in CFSP discussions without having to become a full member.

Such a solution, in which the rights and responsibilities of the EU/CFSP Associate Members were defined plainly, would solve the issue of political control, and thus provide a solid basis for the inherently less problematic operational aspect of the issue. Furthermore, the WEU Associate Members' involvement in such operations would not be confined only to operations carried out with the use of NATO assets.

This option would also constitute an important opportunity for harmonisation of the foreign and security policies of the three new Associate Members of WEU with the EU's CFSP in the transitional period before their full membership of the EU. Through such a process of Associate Membership, these prospective members of the EU could adapt themselves to the security and military aspects of CFSP. As for Turkey, this option would offer a chance to establish closer institutional ties with an organisation that it might never join. It would also be beneficial for the EU not to lose a geostrategically crucial ally, by keeping it closer as an Associate Member, if there were no chance to grant it full membership.

To conclude, it can be said that the first option seems a favourable transitional solution to the problem of inclusion of WEU Associate Members in EU-led WEU operations, undertaken without the use of NATO assets, or operations made in the CFSP framework after WEU's demise. The second option presents an institutional solution, confined to operations that could be conducted by the EU with the use of NATO assets and capabilities. The third option, on the other hand, may be regarded as the most favourable, especially for Turkey, since it proposes the establishment of an association between the EU and WEU Associate Members and, thereby, constitutes a long-term solution.

⁴¹ Barry Buzan and Thomas Diez, 'The EU and Turkey', *Survival*, Spring 1999, pp. 41-57, at page 54.

CONCLUSION

A holistic approach to European security requires cooperation between all actors in handling European security issues. It would not be realistic to expect that an ESDI could be maintained credibly without the involvement of non-EU member European Allies of NATO, and their exclusion from any decision on European security seems hardly conceivable. Compared with the rigid membership structures of EU and NATO, WEU's flexible member statuses have constituted an example of further participation of all European security actors in the decision-taking mechanisms in this field.

Although WEU has offered different levels of involvement of its Associate Members, Observers and Associate Partners in its activities, it does not and cannot create the possibility for them to be included in EU or NATO affairs without the individual and independent consent of the latter two organisations. This is why the issue of participation of WEU Associate Members in the EU decision-making process for Petersberg operations, and, now, their inclusion in the new EU/CFSP framework after WEU's demise, are delicate issues that should be discussed between the EU and the Associate Members themselves.

In this paper three options have been presented for tackling this delicate issue of participation. In the first option, WEU Associate Members may associate themselves unilaterally with CFSP decisions, and may accept EU direction without any involvement in the EU decision-making process. This option would reflect goodwill on the part of the Associate Members while freeing EU from any kind of commitment towards them. Therefore, it would be appropriate to think of this option rather as a transitional solution, which would pave the way for the WEU Associate Members to be further involved in the EU/CFSP framework in the future. Another option would be an arrangement between NATO and the EU that would set the conditions for non-EU Allies' participation. This would be a practical and institutional solution, but it would be confined only to operations carried out by the EU with the use of NATO assets and capabilities.

The third option would be the involvement of the WEU Associate Members in the EU/CFSP framework through an Association Agreement. Given the current developments towards the incorporation of WEU functions into the EU, the third option would not only be helpful for the participation of WEU Associate Members in the decision-making process for EU-led Petersberg operations, but it would also provide an answer to questions on the status of current WEU Associate Members in the event of WEU's demise. This option can also be regarded as the ideal one, especially from a Turkish point of view, since it would be a decisive step towards the establishment of an ESDI and the strengthening of a holistic approach to European security. The third option can also be regarded as a long-term solution. Short-term arrangements are to be construed as mere transitional contributions to solve the problem. Therefore, the declaration made at the informal EU summit in Finland in early September 1999, that an informative and consultative framework would be established between the non-EU European Allies and the EU, has only a transitional value.

It is crucial for EU members to recognise the strategic mistakes that they may make while seeking *ad hoc* and short-term solutions to problems in the EU's external relations. The deadlock with Turkey over the issue of its candidacy for full membership of the Union and their inability to act quickly in large-scale issues like Bosnia and Kosovo are all examples of policies aimed at weathering crises rather than solving underlying problems. The appointment of Javier Solana as the High Representative of the EU constitutes an important step towards overcoming the difficulties. His decisive speeches on CFSP - including the EU/WEU merger - and his statement that he would search for ways to get a key ally like Turkey involved in the European security framework⁴² reflect his determination to seek long-term solutions to the delicate issue of Turkey's participation in a common security and defence policy.

If the coming months are marked by the development of a European security and defence capability, EU members ought to keep in mind that it should not be characterized by the drawing of new lines across the continent. A careful approach based on cooperation and goodwill on all sides can be the key to solving the problems that will be raised by the eventual creation of a military dimension in the EU. Therefore, a solution to the issue of participation of WEU Associate Members in the new European security and defence framework will not only serve the interests of the non-EU Allies concerned, but also the interests of EU members. This will obviously be a significant step towards the achievement of a *genuine* ESDI: *genuine* in the sense that it would involve all European security actors (NATO and EU) through a holistic approach.

⁴² David Buchan, "Solana hopes to add value to EU foreign policy-making", *Financial Times*, 15 September 1999.