

REPORT

from: Chairman of Working Group VIII - Defence
to: Convention
Subject : **Final report of Working Group VIII - Defence**

This report is in two parts. The first part reviews the legal context and the developments in European security and defence policy since the Cologne European Council (3 and 4 June 1999), the progress made and gaps remaining (paragraphs 5 to 30).

The first part also presents the specific features of defence issues and the diversity of the situations of the various States in relation to defence issues (paragraphs 31 to 44).

This first part, finally, describes the new challenges and threats which the Union and its Member States have to face. The way the strategic context has evolved has been an important element in the reflections of the Working Group and the formulation of its recommendations.

The second part of the report contains the Working Group's recommendations, several of which have received wide support:

- updating the Petersberg tasks (paragraph 51);
- improving the arrangements provided for crisis management, in order to improve the coherence and effectiveness of the Union's action (paragraph 52);

- ensuring flexibility in decision-making and in action, both through more extensive use of constructive abstention and through the setting-up of a specific form of closer cooperation between those Member States wishing to carry out the most demanding Petersberg tasks and having the capabilities needed for that commitment to be credible (paragraphs 53 to 55);
- introducing a solidarity clause to enable Member States *inter alia* to prevent and respond to terrorist threats within the Union by mobilising all the necessary military and civil instruments (paragraphs 57 and 58);
- setting up a European Armaments and Strategic Research Agency to strengthen the industrial and technological base of the defence sector, allow Member States to pursue different cooperation programmes among themselves (paragraphs 64 and 65) and ensure fulfilment of capabilities commitments (paragraphs 66 and 67);
- giving the High Representative for the common foreign and security policy the responsibility for directing Union action and for coordinating Member States' efforts as regards defence (paragraph 71);
- ensuring suitable parliamentary scrutiny (paragraphs 72 and 73).

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After these three months of work and at a time when the Convention is about to engage in debate on the basis of these recommendations, and then prepare the wording of new articles for the Treaty, I want to express my personal gratitude to all members of the Group, to the prominent figures and speakers who shed light on our proceedings and to all those who have helped me draft this report, particularly the Convention Secretariat, provided by Ms Annalisa Giannella, Mr Guy Milton, Ms Agnieszka Bartol and Ms Alessandra Schiavo.

Michel BARNIER

A. INTRODUCTION

1. The Working Group on Defence, chaired by Mr Michel Barnier, conducted its proceedings on the basis of the mandate given by the Praesidium of the Convention, as subsequently expanded by the Group's Chairman (CONV 206/02 and CONV 246/02), and of questions which were put to it. The discussion was conducted, furthermore, with the support of introductory notes from the Secretariat prepared for each of the meetings, together with hearings of experts (a list of experts heard is given in the Annex).
2. In addition, a seminar on the European security and defence policy (ESDP) was organised, with the assistance of the European Union Institute for Security Studies, during which members of the Convention were able to engage in discussions with experts (the programme for the seminar, a list of speakers and the minutes will be found in CONV 417/02).
3. The Working Group has met on nine occasions (one of the meetings was held jointly with the Working Group on External Action). Members of the Group and other Convention members submitted 44 written contributions ¹.
4. This report presents the results of the Group's discussions and sets out its recommendations to the Convention.

B. THE ESDP TODAY

5. The objective of introducing a common foreign and security policy (CFSP) was first acknowledged during the negotiations that led to the Maastricht Treaty. The provisions concerning the CFSP, including those on the ESDP, were revised by the Amsterdam Treaty, which came into force on 1 May 1999.
6. The concept of security is very broad, by nature indivisible, and one that goes beyond the purely military aspects covering not only the security of States but also the security of citizens. On the basis of this broad concept of security, the common foreign and security policy and the ESDP which forms part of it favour the promotion of international security

¹ A list of contributions is given in Annex II.

founded on multilateral solutions and respect for international law. Conflict prevention is a key element in the approach followed by the Union in international relations. The ESDP allows the Union military options over and above the civil instruments of crisis prevention and management.

Within this broad concept of security, disarmament occupies an essential place. Through the CFSP, the Union is deeply engaged in promoting multilateral efforts in favour of disarmament.

Legal bases

7. The current principal legal bases for the ESDP are contained in Article 17 of the Treaty on European Union (TEU), which makes the ESDP an integral part of the CFSP. Paragraph 1 of that Article defines in very broad terms the scope of the ESDP, which includes "*all questions relating to the security of the Union, including the progressive framing of a common defence policy (...), which might lead to a common defence, should the European Council so decide*" Paragraph 2 of the same Article specifies that security questions include the Petersberg tasks, in particular "*humanitarian and rescue tasks, peacekeeping tasks and tasks of combat forces in crisis management, including peacemaking*".

Developments since the Cologne European Council meeting

8. The new international context and the limits to action by Member States of the Union during the Balkans crisis prompted consideration of how to give practical effect to the ESDP.
9. The Franco-British meeting in Saint-Malo, and subsequently the Cologne European Council meeting in June 1999, gave the political impetus and set out the guidelines required for the strengthening of the European security and defence policy.

10. At the Cologne European Council meeting (3 and 4 June 1999), the Heads of State or Government of the Member States of the European Union took the decision to provide the Union with the capacity for autonomous action, backed up by credible military forces, the means to decide to use them and a readiness to do so, in order to respond to international crises without prejudice to actions by NATO. At the Helsinki European Council meeting (10 and 11 December 1999), the Heads of State or Government confirmed that they intended to give the European Union autonomous capacity to take decisions and made clear their intention, where NATO as a whole was not engaged, to launch and conduct EU-led military operations in response to international crises. These conclusions have since been further developed by the European Council. Although the European Union's natural priority, in its crisis-management action outside the Union, remains relatively close to its borders, neither the Treaty nor the European Council conclusions place any geographical limit on the Union's action.

(a) Military capabilities

11. At the Helsinki European Council meeting, the political objective set at Cologne was reflected in the adoption of concrete objectives concerning the creation of European forces that are credible, available and effective. Under this objective (known as the "Helsinki headline goal"), the Member States undertook to be able, by 2003 and cooperating voluntarily, **to deploy rapidly** (within 60 days) and **sustain** (for at least one year) **military forces capable of the full range of Petersberg tasks** as set out in the Amsterdam Treaty, including those which would require significant forces of up to corps level (up to 15 brigades, or 50 000 to 60 000 persons).

The Member States must also be able to **deploy smaller rapid response elements with very high readiness**. These forces must be self-sustaining, with the necessary command, control and intelligence capabilities, logistics, other combat support services and additionally, as appropriate, air and naval elements. The Member States of the European Union have also established common capability goals (command and control, reconnaissance and strategic transport).

12. For those Member States which are also members of the Atlantic Alliance, their military capabilities must also allow them to play their full role in NATO operations.
13. Furthermore, as early as the Cologne European Council it was agreed, on the basis of the declaration at the NATO summit held in Washington in 1999, that the Union should be able to conduct operations with recourse to NATO resources and capabilities. To implement this category of operation, specific arrangements must be agreed with the Alliance.
14. Two Military Capabilities Commitment Conferences have been held since November 2000. At those Conferences the national commitments needed to achieve the Helsinki objectives were collected. Analysing the capability catalogue, it was possible to affirm that by 2003 the European Union will be capable of conducting more demanding operations as its capabilities continue to develop.
15. After analysing the outcome of the evaluations conducted at the two conferences on improving military capabilities, the Member States decided to set up a *European capabilities action plan* to make good the shortfalls noted in the area of capabilities by rationalising Member States' defence efforts and increasing synergy between their national and international projects.
16. In that context, nineteen Working Groups were established to examine most of the significant shortcomings pinpointed by the Headline Goal Task Force. These Working Groups' reports are expected for 1 March 2003.
17. Although considerable progress has been made in identifying shortfalls and remedying them, it must be noted that the results remain unsatisfactory and that additional efforts are called for.
18. The critical shortcomings concern the following:
 - command, control and communications;
 - strategic intelligence and the surveillance and protection of troops in the field;
 - strategic transport by air and sea;
 - effective engagement capacity.

(b) Institutional developments

19. The enhancement of capabilities has been accompanied by institutional developments, the first being the appointment at the Cologne European Council of the High Representative for the Common Foreign and Security Policy, whose action in the area of "flashpoint diplomacy", particularly in the FYROM, has been especially significant and useful. In accordance with the Nice European Council conclusions, structures have been specifically created for decision-making on and monitoring of crisis management action: the Political and Security Committee (PSC), which exercises, under the responsibility of the Council, political control and strategic direction of crisis management operations; the Military Committee, which provides military advice and exercises military command over all military activities, and the Military Staff, which supplies military expertise.

(c) Civil capabilities

20. Since the Feira European Council, the notion of capability goals has also been applied to the civilian sphere – particularly to police capabilities, and the capabilities needed for actions intended to contribute to respect for the rule of law, establishment of a civil administration and civil protection. A committee has also been set up to deal with the civilian aspects of crisis management. Since then, conferences on the improvement of civil capabilities have been organised and a plan of action adopted for police capabilities.
21. On 19 November 2002 the conference on civilian crisis management capabilities noted that voluntary commitments by the Member States had outstripped the specific goals set for 2003 by the European Council for priority areas (police, rule of law, civil protection and civil administration).

(d) *Crisis management procedures*

22. The European Union has developed procedures for crisis management and approved a policy and programme of exercises. An initial test of the procedures was carried out in May 2002 with crisis management exercise CME02. The text describing the procedures, endorsed by the PSC, remains open-ended. It may be noted here that there is no provision at present in the Union's programme of exercises for carrying out military manoeuvres in the framework of the ESDP.

(e) *Operational capability declaration*

23. In view of the progress made in terms of structures, procedures and capabilities, the Laeken European Council adopted an "operational capability declaration", noting that "*through the continuing development of the ESDP, the strengthening of its capabilities, both civil and military, and the creation of appropriate structures within it ..., the Union is now capable of conducting some crisis-management operations. ... Development of the means and capabilities at its disposal will enable the Union progressively to take on more demanding operations*".
24. Since that declaration, the Union has decided to put in place, as from 1 January 2003, a policing mission in Bosnia and Herzegovina to take over from the United Nations policing operation. In addition, the Union is considering the possibility of taking over the military operation conducted by NATO in the FYROM.

(f) *Relations and cooperation with NATO*

25. The European defence policy cannot be defined without making reference to NATO. Eleven current European Union Member States are members of NATO and are bound by a collective defence clause by virtue of Article 5 of the Washington Treaty. Article 17 of the EU Treaty makes explicit reference to the obligations arising from the North Atlantic Treaty for those Member States which are members of NATO. Among the EU candidate countries, four are part of the Alliance and at the Prague Summit on 21 and 22 November 2002 others were invited to join NATO. For States which are simultaneously members of the European Union

and of NATO, their military capabilities must also allow them to play their full role in the framework of NATO operations.

26. It has already been pointed out that since the Cologne European Council there has been provision for the Union to conduct operations using the resources and capabilities of NATO (particularly as regards planning). However, the so-called "Berlin plus" agreement, which would guarantee access to these capabilities for the European Union, has not yet been concluded. The members of the Group have stressed that the conclusion of that agreement will be of great importance to the implementation of the ESDP.

(g) Relations and cooperation with the United Nations

27. International action by the Union is based on a multilateral approach. The Union acts for peace and for the strengthening of international security in accordance with the principles of the United Nations Charter. The Union recognises the primary responsibility of the United Nations Security Council for the maintenance of international peace and security.
28. At the Göteborg European Council (15 and 16 June 2001), the Heads of State or Government of the Member States also took important decisions to strengthen cooperation between the European Union and the United Nations, particularly in the area of conflict prevention and crisis management.
29. The operational capability that the European Union acquires under the ESDP may prove to be an important element in conflict prevention and crisis management operations conducted by the United Nations.
30. The establishment of the European Union Police Mission in Bosnia and Herzegovina provided an opportunity for practical cooperation with the United Nations to effect the transition between the two operations.

C. SPECIFIC NATURE OF DEFENCE MATTERS

31. Defence policy is a special policy both at national and at European level. By nature it belongs to the most sensitive areas of sovereignty and calls upon essentially national resources. The decision to take part in an operation is for national authorities, which will always wish to be involved in the conduct of operations which have national security implications and are also likely to endanger the lives of their soldiers and their citizens.
32. Consequently, the provisions relating to the ESDP sometimes differ from those which apply to the CFSP, e.g.:
- the provisions of the Treaty of Maastricht (Article 23(2) TEU) rule out the possibility of applying qualified majority voting to "*decisions having military or defence implications*";
 - the provisions on the financing of the ESDP (Article 28(3) TEU), whereby "*operational expenditure to which the implementation of those provisions gives rise shall also be charged to the budget of the European Communities, except for such expenditure arising from operations having military or defence implications and cases where the Council acting unanimously decides otherwise*". This provision forbids the financing of military operations out of the Community budget. Such financing may therefore be provided either directly by the Member States taking part in an operation ("costs lie where they fall") or by the establishment of another system.

Variety of situations

33. It is worth considering the diversity of individual States' situations in terms for example of status, budgetary effort and military capabilities.

(a) *Difference in status*

34. Eleven European Union Member States (Germany, Belgium, Denmark, Spain, France, Greece, Italy, Luxembourg, the Netherlands, Portugal and the United Kingdom) are members of NATO and are therefore bound by the collective defence clause under Article 5 of the Washington Treaty.
35. Those States, with the exception of Denmark, are also members of the WEU and have therefore entered into a similar, if not wider, commitment under Article V of the Brussels Treaty.
36. Four Member States (Austria, Finland, Ireland and Sweden) are neutral or non-aligned countries. They cooperate with NATO under the Partnership for Peace Programme (PPP) and take part in the Euro–Atlantic Partnership Council (EAPC). They also have observer status in the WEU.
37. Mention should also be made of the special case of Denmark, which, although a NATO member, enjoys special arrangements in the European Union framework by virtue of a Protocol annexed to the Treaty. Pursuant to that Protocol, Denmark does not participate in the elaboration and the implementation of decisions and actions of the Union which have defence implications, but does not prevent the development of closer cooperation between Member States in this area.
38. A variety of situations is also to be found among the countries which are candidates for accession to the European Union. Four of them (Hungary, Poland, the Czech Republic and Turkey) are already members of NATO, while others were invited to join NATO at the Prague Summit on 21 and 22 November 2002. Those candidate countries for European Union membership which are already in NATO are also "associate members" of the WEU, while the others (Bulgaria, Estonia, Latvia, Lithuania, Romania, Slovakia and Slovenia) have the status of "associate partners" and will certainly become "associate members" once they have joined NATO. Two candidate countries remain non-aligned (Cyprus and Malta).

(b) Differences in defence industry

39. The current situation is also particularly varied with regard to Member States' defence industries. The countries cooperating under the OCCAR ¹ (Germany, France, Italy and the United Kingdom) and the LoI ² (Germany, Spain, France, Italy, the United Kingdom and Sweden) alone account for 90% of total European production in this sector.

(c) Budget differences

40. Another source of diversity between countries is of course the size of their defence budget, the actual structure of that budget and the nature of their military capabilities. The size of European Union Member States' budgets varies widely. An analysis of defence budgets shows that in only five of the fifteen Member States does military expenditure exceed 2% of GDP. Just two States, France and the United Kingdom, have recently announced sizeable increases in their military budgets for equipment. In most Member States, military expenditure is continuing to decrease.
41. The differing structures of defence budgets have also to be stressed, since the percentage of expenditure allocated to research and development and to equipment is a decisive factor. It should further be noted in this respect that some countries have military-style police forces which are also financed from the defence budget.

¹ The main task of the OCCAR (Organisation for Joint Armament Cooperation) is to conclude effective agreements for the management and development of certain armaments cooperation programmes between the Member States. The OCCAR currently manages several international programmes.

² In 1998 six Member States signed a Letter of Intent with the aim of defining a framework for supporting industrial restructuring in the defence sector.

(d) Differences in deployment capability

42. There are considerable differences between Member States' capabilities to deploy forces. While to some extent linked to national defence budgets, deployment capability is more than simply a budgetary issue. Only a small number of Member States currently have forces designed for deployment outside their national territory.

(e) Other differences

43. Other differences may be identified: for example, permanent membership of the United Nations Security Council, professional army or conscript army, possession or not of nuclear capabilities.

Cooperation developed between certain Member States

44. In various areas of defence there are forms of closer cooperation between certain Member States:
- in the area of armaments some Member States cooperate under the OCCAR and the LoI. The special nature of this cooperation is due to the fact that only a few Member States take part and undertake to carry out projects together;
 - in the military field, some Member States have created multinational military units with headquarters or general staffs. This is the case for Eurocorps (land forces: Germany, Belgium, Spain, France and Luxembourg), Eurofor (land forces: Spain, France, Italy and Portugal), Euromafor (naval forces: Spain, France, Italy and Portugal), the European Air Group (Germany, Belgium, Spain, France, Italy and the United Kingdom), the Multinational Division (Centre) (Germany, Belgium, the Netherlands and the United Kingdom) and the General Staff of the German-Netherlands First Corps (Germany, the Netherlands and the United Kingdom).

There are also other multinational forces, which, however, do not have joint headquarters (for example the British-Netherlands Amphibious Force and the Spanish-Italian Amphibious Force) and multinational military units (NORDCAPS, with the participation of three Member States, Finland, Sweden and Denmark and also of Norway).

D. THE CURRENT CHALLENGES

The new threat ¹

45. The ESDP was defined and developed on the basis of the challenges and threats as evaluated in the 1990s. There can be no doubt that this definition of threat has been overtaken by international events. After 11 September, the threat is no longer defined solely by the risk of conflict between States or ethnic groups. The situation is more one of **global insecurity** characterised by less clear-cut risks, including those linked to international terrorist organisations or the use of weapons of mass destruction, which elude the provision made for conflict management in the traditional sense.
46. The events of 11 September prompt consideration not only of the need to project stability outside the Union but also of the need to ensure security within the European Union, particularly for the protection of the civilian population and democratic institutions. A purely national framework is no longer enough. At the same time, public opinion is calling more than ever for security and protection and appears to be very much in favour of European defence. It is therefore for the Convention to consider how the gap between expectations and reality could be overcome.

¹ Some members of the Group do not share this view.

Credibility and effectiveness

47. One key factor in the credibility of the Union's defence policy and hence of its international role is that there should be suitable, interoperable military capabilities. This challenge was identified as early as the Cologne European Council and, as we have already seen, much has already been accomplished. However, we need both to ensure that the Helsinki headline goal is fully achieved and to check whether the capability objectives do not need to be revised in the light of the new threats. The need for fresh efforts in this area of capabilities clashes in particular with Member States' budgetary constraints. The Group is unanimous in acknowledging the need to make expenditure more effective. Several members of the Group also believe that defence budgets need to be increased.
48. It is essential to step up investment in military research, both to ensure that equipment is efficient and in the interests of civil industry, which also benefits from the results of military research. The need to increase military research can be illustrated, for example, by the substantial differences which exist between the scale of European and of United States investments in the field (some EUR 10 billion invested by the European Union as against EUR 53 billion by the United States). This expenditure also seems to be considerably less effective in Europe.
49. The Union must be able swiftly to mobilise its civil and military capabilities in the context of crisis management. It cannot simply produce declarations on operational capability or catalogues of military strength. It must be able to take decisions swiftly and effectively.

E. RECOMMENDATIONS

50. The Group stressed that the security and defence policy makes a powerful contribution to the Union's international credibility. The aim in framing that policy, is not to transform the European Union into a military alliance but to provide it with the instruments it needs to defend its objectives and its values and to contribute to peace and stability in the world in conformity with the principles of the United Nations Charter and international law. The

Group, which noted that those were the objectives of the CFSP, which includes the ESDP, as laid down in the present Treaty, also noted with interest the proposed "principles and objectives" that Working Group VII on External Action recommends be incorporated into the constitutional treaty (see CONV 459/02)). The Group also noted that the principle of gender awareness should apply across the board.

I. Crisis management:

(a) Updating the Petersberg tasks

51. The Group recommends that the description of the Petersberg tasks be expanded to include specific reference to other tasks involving the use of military resources:

- conflict prevention (early warning, confidence and security building measures, etc.);
- joint disarmament operations (weapons destruction and arms control programmes);
- military advice and assistance ("*defence outreach*": cooperation with the military forces of a third country or of a regional/subregional organisation on developing democratically accountable armed forces, by the exchange of good practices, e.g. through training measures);
- post-conflict stabilisation;
- support for a third country's authorities, at their request, in combating terrorism

(b) Arrangements for ensuring coherence and efficiency in carrying out crisis management operations

52. A crisis management operation must meet two absolute requirements: efficiency and coherence. There was clear support within the Group for the view that swift and efficient crisis management procedures are needed, without this undermining political control.

- (a) Use should be made of Article 25 of the Nice Treaty, which allows for the Council's power of decision to be delegated to the Political and Security Committee as regards the political control and strategic direction of an operation decided on by the Council, and for the duration of that operation.
- (b) It is recommended that the role of the High Representative be enhanced. The High Representative should have a right of initiative in crisis management matters, but the decision to initiate an operation would continue to be taken by the Council. In particular, it would be for the High Representative to submit to the Council a proposal specifying the type of operation contemplated and the resources needing to be brought together for its implementation. Moreover, it is essential for the conduct of a crisis management operation that responsibility for coordination be assigned to the High Representative, who should ensure the coherence between the civilian and military aspects of the operation under the authority of the Council and within the parameters approved by it. The commander of the military operation and those in charge of civilian aspects should be answerable to the High Representative. He would be empowered, in urgent cases, to take the necessary decisions under the authority of the Council and in close and permanent contact with the Political and Security Committee, the body exercising the political control and strategic direction of a crisis management operation. He would also be required to report regularly to the Council on his activities.
- (c) The need to coordinate military and civilian aspects on the ground is vital and ought to reflect the arrangements made in Brussels. That role should be assigned to the Special Representatives acting on the ground under the authority of the High Representative or, failing that, to another person designated by the Council for the purpose. All such arrangements should observe the integrity of the military command.
- (d) The launching of an operation, both its military and its civilian aspects, also requires swift access to financing. Regarding the civilian aspects of a crisis management operation, the Group took careful note of the recommendations made by Working Group VII on External Action.

Regarding the military aspects, the following proposals drew majority support:

- where the intended operation is a military one, or it is not yet decided whether it will be civilian or military, appropriate funding needs to be provided for the operation's preparatory phase. It is therefore envisaged that a relatively modest fund be set up, based on Member States' contributions, from which the preparatory stages of such an operation could be financed, avoiding any overlap with existing instruments. The administration of the fund would be governed by strict provisions laid down in a financial regulation and would be subject to political and financial scrutiny;
 - given that military operations may not be financed from the Community budget, it has been suggested that provision be made for the early establishment of a mechanism for bearing common costs.
- (e) To ensure better interoperability upstream, enhanced cooperation on training was also envisaged. The suggestion that a joint military college be established aroused some interest.

(c) Facilitating flexibility in decision-making and action

53. With a view to the forthcoming enlargement of the Union, most members of the Group consider it is more important than ever that the Member States should agree to move from unanimity to other decision-taking procedures, relying more on consent and a culture of solidarity among Member States. The launching of an operation would be decided unanimously, but the rules on constructive abstention would apply, although these might be relaxed. Member States not wishing to support an operation actively, in particular those not wishing to contribute militarily, would be encouraged not to oppose the operation, but to abstain. Once the operation was under way, abstaining States would not participate in

decisions concerning the implementation of the operation as originally decided on, but could join in at a later stage. They would, however, take part in taking decisions which would have important political consequences or would fundamentally change the concept of the operation, going beyond the terms of reference of the mission originally decided on.

54. The Working Group's discussions have revealed the diversity that exists between Member States as regards the level of their capabilities and the willingness to commit themselves actively even to tasks already included in the Treaty, e.g. peacemaking. Several members of the Group have proposed that as the Maastricht Treaty set up a specific form of cooperation for the introduction and management of the euro, the new treaty should consequently provide for a **form of closer cooperation between Member States**, open to all Member States wishing to carry out the most demanding tasks and fulfilling the requirements for such a commitment to be credible. One of the conditions for taking part in this "defence Euro-zone" would have to be a form of presumption that pre-identified forces and command and control capabilities would be available. Another condition might be participation in multinational forces with integrated command and control capabilities. Other factors are also important, such as force preparedness, interoperability and deployment capabilities.
55. In addition to such specific cooperation as established by the Treaty, certain members also proposed amending the provisions on **enhanced cooperation**, as resulting from the Treaty of Nice. In general, those provisions should be open to cooperation in security and defence matters, and their conditions of use would be relaxed (decision to establish enhanced cooperation taken by a qualified majority, reduction in the number of States required to constitute enhanced cooperation, rapid decision-making procedures). Certain members of the Group evinced an interest in this suggestion but, on account of its wider implications, thought that it should be discussed further in the light of the discussions of other working groups. Some members of the Group were opposed to the provisions on enhanced cooperation being applied to defence.

II. The response to the new threat: more solidarity

56. The Group concluded that the threat which the European Union is facing has evolved since the first stages of ESDP development. It is now also necessary to cope with the threat of terrorism and the use by terrorist groups of weapons of mass destruction, which would target the civilian populations and democratic institutions of our countries. The Group also agrees that this threat requires in response the combined use of the whole range of instruments available today to the Union, and in particular the Member States (military resources, intelligence, police and judicial cooperation, civil protection, etc.).

(a) **Solidarity clause requiring recourse to all of the Union's instruments for the protection of the civilian population and democratic institutions**

57. There was broad support for a new clause spelling out the principle of solidarity between Member States which would be enshrined in Article 1 of the Constitutional Treaty. That clause would enable **all the instruments available to the Union to be mobilised** (including the military resources and the structures originally set up for the Petersberg tasks, as well as police and judicial cooperation, civil protection, etc.) in actions undertaken within the territory of the Union aimed, in particular, at **averting the terrorist threat, protecting the civilian population and democratic institutions and assisting a Member State within its territory in dealing with the implications of a possible terrorist attack**. It would therefore be a question of taking advantage of the interdisciplinary character of the Union's approach, in order both to respond effectively to new challenges and to indicate clearly what distinguishes the European Union from a military alliance.

58. Such a clause would not be a clause on collective defence entailing an obligation to provide military assistance, but would apply to threats from non-State entities. Moreover, assistance for the purpose of managing the consequences of an attack would be provided only at the request of the civilian authorities of the country concerned. The European Council should evaluate the threat regularly so that an early-warning system can operate.

59. Taking this enhanced solidarity further, and to strengthen the existing Community mechanism, a situation might be envisaged in which a pool of specialised civilian or military civil-protection units identified by the Member States undertakes joint training and intervention coordination programmes so as to facilitate more effective intervention in the event of natural or humanitarian disasters within the Union.

(b) Solidarity and common security clause

60. Some members of the Group proposed that the notion of solidarity be reflected in a broader clause on solidarity and common security which would be incorporated in the Constitutional Treaty and to which would be linked, in an annex to the Treaty, a political declaration on solidarity and common security in order to identify risks of any sort that threaten the Union, including terrorism, and the means of dealing with them. The European Security and Defence Union that would be produced by this development would also contribute to the strengthening of the European pillar of the Alliance.

(c) Collective defence clause

61. Several members of the Group proposed a collective defence clause. In this context it was also suggested that Member States which so wished could share between themselves the obligations laid down in the Brussels Treaty relating to mutual assistance, thus bringing to an end the Western European Union.

62. Such a collective defence clause was considered unacceptable by some members for reasons connected with the non-aligned status of certain Member States, and by others who considered that collective defence was covered by the Atlantic Alliance.

63. Under those circumstances, those members of the Group who were in favour of the collective defence clause thought that it would be sensible to allow those Member States wishing to intensify their cooperation, and in particular to take over the commitments of the WEU Treaty, to do so within the framework of the Union rather than outside the Union. The new Treaty could therefore establish a **closer type of cooperation on defence**, open to

all Member States wishing to enter into such a commitment and fulfilling the requirements for such a commitment to be credible, in particular in terms of command and control capabilities, force preparedness, interoperability and deployment capabilities.

Decisions would be taken only by the participating Member States. **The methods of operation and decision-making procedures for such cooperation would be specified in the text establishing such cooperation.**

III. Capabilities and armaments: towards a European agency

64. Development of capabilities is linked to development of armaments. In this context, the setting up on an intergovernmental basis of a **European Armaments and Strategic Research Agency** was supported by many in the Group. The Agency's initial tasks would be to ensure the fulfilment of operational requirements by promoting a policy of harmonised procurement by the Member States, and to support research into defence technology, including military space systems. The Agency would incorporate, with a European label, closer forms of cooperation which already exist in the armaments field between certain Member States (OCCAR, LoI). The Agency should also be tasked with strengthening the industrial and technological base of the defence sector. It should also incorporate the appropriate elements of the cooperation that most Member States undertake within the WEAG¹.
65. In this context, the following methods of participation are envisaged:
- all Member States which so wished could participate in the Agency, the composition of which would not be linked to other, limited forms of defence cooperation;

¹ WEAG – group for armaments cooperation between 19 European countries (14 of which are members of the European Union and 16 members of NATO), the objective being harmonisation of operational programmes and standards, cooperation on research and technology and the opening up of contracts.

- certain Member States could constitute specific groups based on a commitment to carry out specific projects in the area of research, development and procurement, on the basis of the principles according to which current forms of cooperation operate, e.g. OCCAR;
- specific projects could also be opened up on an ad hoc basis to countries which are not members of the European Union, in particular to non-Union members of the WEAG;
- the Head of the Agency might also make recommendations concerning the specific rules to apply to the armaments sector with a view to a European market which would strengthen the industrial base and optimise military spending, thereby enabling the scope of Article 296 TEC to be specified with due regard for experience acquired in Community matters.

66. Many members of the Group are of the opinion that the development of the ESDP calls for the strengthening of military capabilities available to the Union – with regard to both commitments entered into by Member States in order to fulfil the Petersberg tasks and deeper commitments which might be entered into by certain Member States among themselves under a closer form of cooperation. Some members of the Group suggested that these deeper commitments take the form of a protocol annexed to the Treaty, whereby those States that so wished would harmonise their military requirements, share their capabilities and resources and ensure some specialisation of their defence efforts.

In that context, there is a proven need for a mechanism to evaluate and improve on the way in which Member States fulfil their commitments. A range of objectives might be considered, which would evaluate *inter alia*:

- the proportion of the defence budget in relation to GNP, and in particular the proportion of equipment and research expenditure in the defence budget;
- force preparedness, including force deployment capabilities and their interoperability;

Several members of the Group proposed that compliance with these commitments by the Member States should be the subject of an evaluation and monitoring exercise.

67. This function could be entrusted to the **Armaments Agency**, which would thus become a true **Capabilities Agency**, with the role of encouraging Member States' efforts to improve capabilities. The head of the Agency could thus have the authority to monitor Member States' progress in developing capabilities with regard to the various objectives approved, and to propose that certain countries participate in specific programmes.
68. There was broad support for the creation of a **Council configuration** bringing together **Ministers for Defence**, which would not require any amendment of the Treaty. This Council would exercise a role with regard to capabilities, monitor implementation of Member States' undertakings in that sphere and adapt the Union's capability objectives to developments in requirements and the international situation. If the abovementioned Agency were set up, its head would report annually to the Defence Council on the development of military capabilities within the Union. The Ministers for Defence could also be associated with the Council of Ministers for Foreign Affairs when the latter discusses military crisis management operations.
69. Some members of the Group indicated their preference for maintaining existing arrangements which allow defence ministers to meet in the framework of the General Affairs and External Relations Council.

IV. The institutional framework: arrangements to be strengthened

A. ESDP structures

70. Existing institutional structures in the ESDP area must be maintained. They would, however, have to be adapted to ensure greater coherence and efficiency.
71. In order to ensure the effectiveness of the defence policy, there should be at the Council a political figure who, acting under the Council's authority, directs European Union action and coordinates Member States' efforts as regards defence. The Group takes the view that the figure who performs the duties of High Representative for the CFSP should be given responsibility for Union action in the area of ESDP.

B. Parliamentary scrutiny

72. The Group also underlined the importance of ensuring suitable political scrutiny of security and defence policy, taking account of the specific nature of this field.

73. Such scrutiny would be exercised in two ways:

- European Parliament:
 - at present, the European Parliament is informed of developments in common foreign and security policy by the Presidency of the Council, and by the High Representative. It is thereby informed of progress and decisions taken in CFSP matters and of guidelines for the future;
 - the Parliament may put resolutions to the Council, which the Council will take into account at its meetings.

- National parliaments:
 - national parliaments exercise permanent scrutiny over their respective governments, notably in the field of defence policy;
 - in the majority of Member States the national parliament approves the use of national forces in an operation;
 - regular meetings of the relevant committees of the national parliaments should be organised so as to ensure better exchanges of information and more effective political scrutiny. Some members of the Group wanted Members of the European Parliament to be associated with these meetings.

List of experts heard by Working Group VIII on Defence

1. Mr Javier SOLANA (High Representative for the CFSP),
2. Gen. Rainer SCHUWIRTH (Head of EU Military Staff),
3. Mr Corrado ANTONINI (President of the European Defence Industries Group),
4. Mr Jean-Louis GERGORIN (EADS),
5. Mr Laurent GIOVACCHINI (DGA, French Ministry of Defence),
6. Mr Peter LUNDBERG (Assistant to Director-General, Defence Equipment Agency, Sweden),
7. Mr Anthony PARRY (BAE Systems),
8. Gen. Carlo CABIGIOSU (former KFOR Commander General),
9. Mr Alain LE ROY (Special Envoy of the European Union in the FYROM),
10. Gen. Gustav HAGGLUND (Chairman of the EU Military Committee),
11. Lord ROBERTSON (Secretary-General of NATO and former UK Secretary of State for Defence),
12. Mr Alain RICHARD (former French Minister of Defence),
13. Rt. Hon. Christopher PATTEN (Commissioner for External Affairs)

Working Group VIII on Defence

<u>DOCUMENT</u>	<u>DRAFTER</u>	<u>SUBJECT</u>	<u>DATE</u>
WD 2	Mr Wim van EEKELEN		19 September
CON 301/01	Mr Lamberto DINI	European Defence	26 September
WD 4	Mr George KATIFORIS	Towards an EU Armaments Strategy	2 October
WD 5	Ms Sylvia-Yvonne KAUFMANN	Armaments	4 October
CONV 329/02	Mr Diego LÓPEZ GARRIDO, Mr José BORRELL and Mr Carlos CARNERO	Une Constitution européenne pour la paix, la solidarité et les droits de l'homme	8 October
WD 7	Mr George KATIFORIS	Strategic Direction on EU Crisis Management Operations	11 October
WD 8	Ms Marie NAGY	Politique étrangère de sécurité et de défense de L'Union européenne	30 October
WD 9	Mr Oğuz DEMIRALP	European Defence	15 October
	Mr Dieter SCHLOTEN, Defence Committee of the Assembly of the Western European Union	Une politique de défense européenne: contribution à la Convention	18 October
WD 11	Mr Liviu MAIOR		29 October
WD 13	Mr Kimmo KILJUNEN	European Security and Defence policy as an integral part of the CFSP	4 November
WD 14	Mr Valdo SPINI	European Defence	4 November
WD15	Ms Sylvia-Yvonne KAUFMANN		4 November
	Mr Mark ESKENS	Rapport présenté au nom de la Commission Politique de l'Assemblée de l'Union de l'Europe Occidentale: Le rôle de l'Europe dans un nouvel ordre de paix et de la sécurité - contribution à la Convention	7 November
CONV 389/02	Mr Panayotis IOAKIMIDIS	The development of the EU's Common Foreign and Security Policy and Defence Policy (CFSP/ESDP)	7 November
WD 17	Mr Puiu HASOTTI	A New Momentum for the ESDP	12 November
WD 18	Mr Proinsias DE ROSSA		13 November
WD 19	Mr Oğuz DEMIRALP	European Armaments Cooperation	18 November
WD 20	Ms Danuta HÜBNER	Crisis Management	19 November

WD 21	Mr Kenneth KVIST	A European Security and Defence Policy aiming for Peace	19 November
WD 23	Ms Gisela STUART		21 November
WD 24	Ms Marietta GIANAKOU		21 November
WD 25	Ms Danuta HÜBNER	Improving the functioning and effectiveness of the ESDP in the service of CFSP	21 November
CONV 422/02	Mr Dominique de Villepin and Mr Joschka Fischer	Joint Franco-German proposals in the field of European security and defence policy	22 November
WD 26	Mr Liviu MAIOR		27 November
CONV 437/02	Mr Hannes FARNLEITER and Mr Reinhard BÖSCH	A new impetus to the European security and defence policy	28 November
WD 27	Ms Gisela STUART	Comments on the preliminary draft final report (WD 22)	4 December
WD 28	Mr Wim van EEKELEN	Dutch comments on the preliminary draft final report (WD 22)	4 December
WD 29	Mr Rihards PIKS	Comments on the preliminary draft final report (WD 22)	4 December
WD 30	Mr Kimmo KILJUNEN	Comments on the preliminary draft final report (WD 22)	4 December
WD 31	Ms Piia-Nora KAUPPI	Comments on the preliminary draft final report	4 December
WD 32	Mr Slavko GABER	Comments on the preliminary draft final report	4 December
WD 33	Ms Sylvia-Yvonne KAUFMANN	Comments on the preliminary draft final report (WD 22)	4 December
WD 34	Mr Danuta HUBNER	Comments on the preliminary draft final report (WD 22)	4 December
WD 35	Mr Esko SEPPÄNEN	Comments on the preliminary draft final report (WD 22)	4 December
WD 36	Franco-German paper	Comments on the preliminary draft final report (WD 22)	4 December
WD 37	Ms Maria Eduarda AZEVEDO	Comments on the preliminary draft final report (WD 22)	4 December
WD 38	Mr Kenneth KVIST	Comments on the preliminary draft final report (WD 22)	4 December
WD 39	Mr Manuel LOBO ANTUNES	Comments on the preliminary draft final report (WD 22)	4 December
WD 40	Mr John GORMLEY	Comments on the preliminary draft final report (WD 22)	4 December
WD 41	Mr John INGUANEZ	Comments on the preliminary draft final report (WD 22)	6 December

WD 42	Ms Gisela STUART	Clarification of the UK proposals on updating the Petersberg tasks	6 December
WD 43	Mr Valdo SPINI		6 December
WD 44	Mr Oğuz DEMIRALP	Comments on the preliminary draft final report (WD 22)	9 December
WD 45	Mr Liviu MAIOR	Proposals for the draft final report	9 December
WD 46	Ms Lena HJELM-WALLEN	Proposals for the preliminary draft final report (WD 22 REV 1)	12 December
