



# Assembly of Western European Union

DOCUMENT 1458

16th May 1995

**FORTIETH ORDINARY SESSION**

**(Third Part)**

The future of European security  
and the preparation of Maastricht II –  
reply to the fortieth annual report  
of the Council

**REPORT**

submitted on behalf of the Political Committee  
by Mrs. Aguiar, Rapporteur



***The future of European security and the preparation of Maastricht II –  
reply to the fortieth annual report of the Council***

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1. Adopted in committee by 18 votes to 4 with 0 abstentions.

2. *Members of the committee:* Mr. de Puig (Chairman); Lord Finsberg, Mr. Roseta (Vice-Chairmen); MM. Alegre, (Alternate: Mrs. Aguiar), Antretter, Sir Andrew Bowden, MM. Bühler, Caballero, Capsis (Alternate: Pavlides), Cioni (Alternate: Mrs. Gaiotti de Biase), Ehrmann, Fassino (Alternate: Benvenuti), Irmer (Alternate: Feldmann), Sir Russell Johnston, MM. Kaspereit (Alternate: Baumel), Lord Kirkhill (Alternate: Marshall), MM. Koschyk, Liapis, van der Linden, de Lipkowski, Maass, Mrs. Papan-dreou, MM. Pécriaux, Pozzo (Alternate: Bianchi), Mrs. Prestigiacomo (Alternate: Arata), MM. Puche Rodriguez, Recoder, Rodeghiero (Alternate: Latronico), Rodrigues, Seeuws, Seitlinger, Sir Keith Speed (Alternate: Sir Peter Fry), MM. Vinçon, Wintgens (Alternate: Kelchtermans), Woltjer, Zijlstra, N...

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

*Draft Recommendation*

*on the future of European security and the preparation of Maastricht II –  
reply to the fortieth annual report of the Council*

The Assembly,

I

- (i) Emphasising the crucial importance of WEU's contribution which must give the 1996 intergovernmental conference clear and coherent guidelines on the place of security and defence questions in European and transatlantic relations;
- (ii) Convinced therefore that the Council's contribution cannot be limited to a re-examination of the declaration on Western European Union annexed to the Maastricht Treaty but must include an in-depth assessment of its experience regarding the application of Article J.4, paragraphs 2 and 5, of the Maastricht Treaty and its repercussions on the application of the modified Brussels Treaty and conclusions to be drawn from this;
- (iii) Taking into account the persistence of major differences over the political goals of an enlarged Europe and the place it should occupy in international relations;
- (iv) Consequently believing that the main goal of WEU's contribution to the 1996 intergovernmental conference must be to strengthen and improve the European structures involved in the area of defence policy in order to enable them to guarantee security more effectively, more democratically and with greater transparency;
- (v) Affirming furthermore that the Assembly remains attached to the effective implementation of the commitment entered into in the modified Brussels Treaty by all WEU member countries which agree to "promote the unity and to encourage the progressive integration of Europe";
- (vi) Stressing nevertheless that there are several ways of advancing European integration, of which merely merging WEU and the European Union is not necessarily the best for increasing security in Europe;
- (vii) Noting in particular that the preparation of the 1996 intergovernmental conference is being pursued in a context of growing divergence between the West and Russia on a large number of questions that concern European security;
- (viii) Believing moreover that the deterioration of the conflict in the Balkans and the problems raised by maintaining peace, stability and security in the Mediterranean region will continue to preoccupy American and European allies;
- (ix) Judging therefore that it would be dangerous to use the 1996 intergovernmental conference to test the functioning of WEU as an instrument of European defence and thus risk jeopardising its political and operational effectiveness and its function as the European pillar of NATO;
- (x) Convinced that given its specific character and its complexity, the implementation of a common defence policy makes it necessary, for a transitional period at least, to maintain an intergovernmental decision-making process based on consensus between member states, without the intervention of the Commission or the European Parliament;
- (xi) Convinced in this connection that parliamentary supervision of European defence policy, which is based on decisions taken by the member states, must be guaranteed exclusively by a parliamentary Assembly composed of delegations of the national parliaments of the member states;
- (xii) Recalling that closer co-operation between the Assembly of WEU and the European Parliament, as encouraged by the Council, has proved impossible because of the European Parliament's refusal to base such co-operation on the principle of reciprocity, respect of the responsibilities of both and recognition of the WEU Assembly as an integral part of the development of the European Union;
- (xiii) Believing that the aim of possible co-operation between the Assembly of WEU and the European Parliament cannot be some form of merger between the two institutions, but should lead to a precise definition and recognition of their respective powers and responsibilities which, far from being in conflict with one another, are complementary, so that democratic supervision in Europe may be exercised by bodies that are truly representative and efficient;

- (xiv) Believing furthermore that for as long as the member countries of WEU and the European Union and the European members of the Atlantic Alliance are not identical and WEU is not fully operational, no merger of any kind between WEU and the European Union will be desirable or feasible;
- (xv) Believing also that all attempts so far in the framework of the Maastricht Treaty to amalgamate the responsibilities of community and intergovernmental institutions in the area of the CFSP have not proved successful, hence the more reason for avoiding them in defence matters;
- (xvi) Convinced, on the other hand, that everything must be done to facilitate consensus between member states in defence matters instead of disturbing them with the prospect of their possibly being put in a minority position;
- (xvii) Wishing therefore that the drafting of the white paper on European security will serve mainly to bring closer together the points of view and interests of the member countries and achieve fuller European integration in these areas;
- (xviii) Regretting the “ wait and see ” attitude prevailing generally in WEU arising from the provisions of the Maastricht Treaty stipulating that any initiative in foreign policy and security matters with defence implications must emanate from the European Union, an institution which includes five non-member countries of WEU and which has less experience than WEU in this area;
- (xix) Recalling, however, that the variable configuration of the Council of WEU allows the points of view of all associate members, associate partners and observers to be taken into account, without the latter being able to block any consensus that may have been reached by the ten full members;
- (xx) Wishing therefore – as the United Kingdom Government memorandum of 1st March 1995 proposes – “ that future European defence arrangements should be based on ... WEU ” and for the latter thus to become capable of providing the necessary political impetus to the European Union and the Atlantic Alliance;
- (xxi) Furthermore supporting unreservedly the United Kingdom proposal that the heads of state and of government meet regularly in the framework of WEU to establish general guidelines concerning collective military action envisaged by Europeans;
- (xxii) Believing that the Chairmanship-in-Office should not be the sole authority for giving impetus to the work of the Council and recalling in this connection its various recommendations for strengthening the functions and power of the Secretary-General of WEU and the participation of the Assembly;

## II

- (i) Welcoming the conclusion of a stability pact in Europe with the aim of facilitating the progressive rapprochement between the Central European countries on the one hand and the European Union and WEU on the other;
- (ii) Welcoming also the fact that the European Union is preparing to conclude Europe agreements with the three Baltic countries and with Slovenia;
- (iii) Wishing WEU to strengthen the working relationship it has established with the associate partner countries as a whole and to create the same kind of relationship with Slovenia;
- (iv) Expressing astonishment at the terms of paragraph 6 of the Council’s reply to Recommendation 565 which states that “ The question of granting Slovenia associate partner status will be kept under review as Slovenia’s relationship with the European Union develops ”, whereas the Council fixed no similar condition for granting this status to the nine countries mentioned previously;

## III

- (i) Noting with interest the content of the two parts of the fortieth annual report of the Council to the Assembly, especially the detailed information it gives on the activities of the various working groups of the Council;
- (ii) Regretting nonetheless the lack of political direction of this report which is the essential basis for the dialogue between the Council and the Assembly;
- (iii) Noting furthermore that the annual report provides no information on the Council’s experience regarding the implementation of a working relationship between the subsidiary organs of the Council on the one hand and, on the other hand, the CFSP institutions and the European Commission or on procedures adopted in this connection;

- (iv) Wishing, in the face of the new risks threatening European security and the problems raised by the preparation of the 1996 intergovernmental conference, for a considerable improvement in co-operation, co-ordination and reciprocal exchange of information between the Council and the Assembly;
- (v) Deeply regretting therefore that the Council has decided to organise an important conference in Washington in June in the context of its transatlantic publicity relations activities, with a wide participation of WEU ministers, at exactly the same time as the Assembly is holding the third part of its fortieth ordinary session and expressing surprise that the Council of Ministers, at its meeting in Lisbon, did not take this opportunity to express its regret regarding this clash of events;
- (vi) Finding it intolerable that certain documents produced by the WEU ministerial organs are not transmitted to the Assembly, whereas they are published by the services of the European Parliament;
- (vii) Astonished that the Western European Armaments Group (WEAG) is not included in the organogram of the ministerial organs as this was transmitted to the Assembly in 1994, and that the annual report makes no reference to the tasks and activities of the Verification Group referred to in that organogram,

## RECOMMENDS THAT THE COUNCIL

## I

1. Between now and the end of 1995, make:
  - (a) an assessment of its experience regarding the implementation of the provisions of the Maastricht Treaty concerning WEU and its repercussions on the application of the modified Brussels Treaty;
  - (b) an assessment of its experience concerning relations between WEU and NATO;
2. Prepare from these assessments a concept for developing its relations with the European Union and NATO, paying particular attention to its future relations with the European member countries of the Atlantic Alliance which have now become associate members of WEU and transmit such assessment to the Assembly for early comment;
3. Take into account the memorandum on the United Kingdom Government's approach to the treatment of European defence issues at the 1996 intergovernmental conference, dated 1st March 1995, as well as that of the Netherlands Government on the CFSP, dated 30th March 1995, or proposals of other member governments to develop a common position of WEU countries in the framework of the preparation of this conference;
4. Arrange to be represented on the group of experts established by the European Council and ensure that all questions relating to the application of the modified Brussels Treaty are dealt with exclusively by the signatory countries of that treaty and its protocols;
5. Ensure that the 1996 intergovernmental conference results in WEU being recognised as an organisation authorised to act on behalf of the European Union in security and defence matters and that member countries of the European Union which are not members of WEU cannot block consensus achieved within WEU in this area;
6. On the basis of the white paper on European security, develop a medium-term concept of the criteria, procedures and even the stages that should be adopted for placing the common defence policy on a new legal and institutional basis subsequently enabling defence questions to be set in the framework of the European Union;
7. Agree that such an undertaking should be achieved within approximately ten years and use this period to examine how far the modified Brussels Treaty should be revised and adapted to the new situation with a view to presenting proposals to another intergovernmental conference which might be convened at the end of the period mentioned above;
8. Include in this medium-term concept provisions providing for more representative parliamentary supervision at European level, in particular by transforming the existing WEU Assembly into a second chamber, alongside the European Parliament thus confirming the rôle of delegations from national parliaments, with responsibilities that are different from and complementary to those of the European Parliament;

9. Not compromise, as matters now stand, the close co-operation between WEU and NATO by opening hastily WEU's doors to organs of the European Union but maintain the procedure for reciprocal exchange of information on the respective activities of these organs and WEU;
10. Manifest more clearly its will to meet its obligations under Article IX of the modified Brussels Treaty and leave no doubt, in its relations with other European and Atlantic authorities, about the fact that the WEU Assembly is the sole Assembly with responsibility in security and defence matters in accordance with an international treaty;
11. Take the necessary steps to give the Secretary-General of WEU the right of initiative, in particular the right to convene the Council of Ministers and the right to participate in meetings of the Council of the European Union and the European Council, when the latter examine questions connected with the CFSP;
12. Hold more frequent meetings, particularly before the meetings of ministers responsible for the CFSP, in order to give them the necessary impetus;
13. Take up the United Kingdom proposal to organise WEU summit meetings on the occasion of meetings of the European Council;
14. Accelerate efforts to make WEU fully operational;

## II

1. Offer Slovenia the same status as that enjoyed by WEU associate partner countries;
2. Strengthen relations both with the associate partner countries as a whole and with Slovenia by taking the measures that are required to enable them to participate fully in developing a European security system;
3. Take the measures necessary to ensure that the 1996 intergovernmental conference results in a revision of the articles of the Maastricht Treaty so as to allow WEU to invite European countries which are members of NATO but not members of the European Union to accede to the modified Brussels Treaty;

## III

1. Ensure that henceforth the annual reports of the Council contain more political substance and also set out the nature of the difficulties that the Council is having in achieving its objectives, with a view to stimulating fruitful dialogue with the Assembly;
2. Fulfil the undertaking it gave in its reply to Recommendation 565 to ensure that it keeps the Assembly informed as a matter of priority through its annual report on the areas and substance of its co-operation with the European Union and NATO;
3. Explain upon which provision of the modified Brussels Treaty is based the decision of the Mediterranean Group, as set out in the second part of the fortieth annual report, to "continue to make clear to its Maghreb and Egyptian interlocutors that in the dialogue between these countries and WEU, WEU was competent to address only politico-military and defence questions, the other issues coming within the purview of institutions such as the CSCE (now OSCE) and the European Union";
4. Inform the Assembly of the content of the document prepared by the European Union authorities on the implications of the situation in the Mediterranean for European security, to which the Permanent Council of WEU contributed, as it emerges from the reply of the Council to Recommendation 565;
5. Ensure in future that the organs mentioned in the organogram of the ministerial organs transmitted to the Assembly correspond to those on which the Council informs the Assembly in its annual report;
6. Inform the Assembly of the tasks and activities of:
  - (a) the Verification Group;
  - (b) the Military Delegates Group;
7. Take the appropriate measures to improve co-ordination of its activities with those of the Assembly and transmit to the Assembly its documents which are unclassified.

## *Explanatory Memorandum*

*(submitted by Mrs. Aguiar, Rapporteur)*

### *I. Introduction*

1. As 1996 approaches, at the start of which the intergovernmental conference is to be opened on the revision of the Maastricht Treaty, the question being raised ever more frequently is what strategy the WEU Council is to adopt, in the framework of its contribution to this conference, on the outcome of which will depend the future of WEU as a whole, and in particular that of the modified Brussels Treaty.

2. The programme of the Portuguese presidency of the Council of WEU, communicated to the Assembly on 30th January 1995<sup>1</sup> identifies two major issues in this context: "the common evaluation of European security, including the French proposal for a white paper, and the institutional implications for WEU for a European security and defence identity". It goes on to state in this connection:

"In our reflection on European security we should identify common objectives, risks and threats, as well as the means we have at our disposal to face them. Our attention could then be directed towards answering the questions raised during this first phase of our work. This will include the need to address highly sensitive and complex institutional matters.

After consultation with all delegations, Portugal has come to the conclusion that it would be better to concentrate on the first of the elements I have just mentioned, leaving the discussion on institutional matters to the seminar of senior officials which is due to take place in Portugal in early June."

3. It is precisely at the beginning of June that the group of experts established by the European Union will begin its work on the institutional aspects of a revision of the parts of the Maastricht Treaty which are to be renegotiated at the intergovernmental conference on the basis of reports to be submitted to it between now and June by the principal institutions of the Union, namely, the European Commission, the Council of the European Union and the European Parliament. As to the possible revision of Article J.4 of Title V of the Maastricht Treaty on the common foreign and

security policy (CFSP) which will deal primarily with the future rôle of WEU, it should be recalled that this is to be undertaken on the basis of a report on this matter which only the Council (of the European Union) will submit to the European Council (see paragraph 6 of Article J.4). Consequently neither the Commission nor the European Parliament are supposed to be involved in preparing a revision of Article J.4. Nevertheless this has not prevented the European Parliament from making the question of the future rôle of WEU one of its main preoccupations<sup>2</sup>. The same holds true for the contributions of the European Commission which has asked a group of experts to prepare an assessment of Title V of the Maastricht Treaty, dealing specifically with relations between the CFSP and WEU<sup>3</sup>.

4. Conversely, in all probability, there will be no contribution from the WEU Council by the time the European Union's group of experts starts its work. It should be noted in this connection that one of the idiosyncrasies of the Maastricht Treaty is that no preparatory rôle has been assigned to the WEU Council in the framework of a revision of the provisions of Article J.4 which specifically concern WEU, although in the declaration annexed to the Treaty of Maastricht the WEU member countries admittedly stated that in 1996 WEU would make its own re-examination of the present provisions. But Article J.4, paragraph 6, of the Maastricht Treaty makes no reference to this declaration.

5. It is therefore crucial for the WEU Assembly to present its ideas in broad outline between now and June, following the direction already marked out in the report by Mr. Soell on a European security policy<sup>4</sup>, further to which the Council, in its reply to Recommendation 565: "fully subscribes to the view expressed by the Rapporteur that 'this report can be regarded as an initial contribution to the preparation of the intergovernmental conference...' and has taken note of the report with great interest."

2. See for example the reports by MM. de Gucht, Bourlanges, Martin (Committee on Institutional Affairs) and MM. Poettering, Crespo and Matutes (Committee on Foreign Affairs, Security and Defence Policy).

3. See the initial report on European security policy towards 2000: ways and means to establish genuine credibility, 19th December 1994.

4. Document 1439.

1. Document A/WEU/DG (95) 2.



6. The Council states in the second part of its fortieth annual report to the Assembly<sup>5</sup> that the Assembly's contribution to the institutional debate "which will be at the heart of the review of the WEU Maastricht declaration, a debate in which the Assembly's contribution is both welcome and most necessary". The Assembly is quite prepared to contribute to this debate but in return expects not only to be heard by the Council and its member governments but also to obtain their backing. In this connection the Assembly noted with satisfaction the content of paragraph 15 of the Noordwijk declaration, which states that "Ministers acknowledge the constructive contributions from the Assembly to the further strengthening of European security". It welcomes the fact that, in the Lisbon declaration of 15th May 1995, the Ministers of the WEU Council underlined the importance they attached to the rôle played by the Assembly in the debate on security and defence in Europe and its substantive contribution to the wider consideration of these issues. If this acknowledgement is not to be just an empty shell, it is essential for the governments of WEU member countries to ensure that the 1996 intergovernmental conference achieves a result enabling the Assembly of WEU to continue its constructive work, even beyond 1998.

## *II. What is at stake?*

7. It is no accident that the European governments chose 1996 to convene a conference for reviewing the provisions of the Maastricht Treaty on the common foreign and security policy. According to the interpretation being given to the modified Brussels Treaty by the governments concerned (which has been challenged by the Assembly of WEU), fifty years after the entry into force in August 1948 of the treaty of economic, social and cultural collaboration and legitimate collective self-defence, each WEU member country will be entitled to submit a declaration to Belgium, the depository power of the modified Brussels Treaty, notifying its intention to cease to be a party to the treaty provided it has previously given one year's notice (Article X of the 1948 Brussels Treaty).

8. It should nevertheless be recalled that WEU was not created by the abovementioned treaty, but by the protocol modifying and completing the Brussels Treaty, signed in Paris, on 23rd October 1954, which came into force on 6th May 1955. It should also be recalled that this protocol fundamentally changed the spirit and objective of the 1948 treaty by creating, for the first time, a defensive European alliance bringing together countries which had been on opposing sides

during two world wars, and that the aim of this new treaty was, moreover, to promote the unity and to encourage the progressive integration of Europe many years before the Treaty of Rome, creating the European Communities, saw the light of day. WEU was in fact the first to start implementing these aims. There is therefore no justification for claiming that it was only "with the merging of the Treaties of the European Communities and then with the creation of the European Union, which has brought WEU inside the process of European integration"<sup>6</sup>, as stated in the study by the European Strategy Group and the Institute for Security Studies of Western European Union, published in March 1995.

9. In placing the emphasis on a "1998 deadline" as the main reason for revising the Maastricht Treaty, the signatory countries are subjecting themselves to an artificial pressure of time, since in reality there is no dead-line. Indeed, the governments were fully aware that the modified Brussels Treaty would not be terminated automatically after expiry of the fifty-year period and that there is no valid reason for denouncing this treaty, which has only begun to secure advantages and yield concrete benefits since the signatory countries have at last decided to make use of it. On the contrary, denunciation of the modified Brussels Treaty would be as dangerous an undertaking as the termination of the Treaty of Washington in 1969, twenty years after it came into force<sup>7</sup>.

10. However, voices are increasingly being raised to say that it is impossible to achieve such complicated institutional reforms under pressure of an artificial deadline and that it is unproductive to allow oneself to be hypnotised by the arbitrary determination of that deadline. It will come as no surprise therefore that in his report submitted on 30th March 1995 on behalf of the consultative committee responsible for European questions in the House of Representatives of Belgium, Mr. Eyskens, who is a partisan of "communitarisation" of Europe's defence dimension, doubts whether WEU can be integrated into the European Union so early as 1998.

11. Several authors of a study by the European Strategy Group of the WEU Institute for Security Studies, published in March 1995 under the title "Towards a common defence policy" go further, envisaging the possible intermeshing of WEU in the European Union ten years hence, a suggested date being 2005. Such a time-lag might indeed facilitate agreement on the political objectives of building Europe and preparation of equitable and realistic solutions to the institutional problems linked to the implementation of these objectives.

6. Towards a common defence policy, page 57.

7. See the texts of Article XII of the modified Brussels Treaty and Article 13 of the Washington Treaty appended to this report.

5. Document 1453, 30th March 1995.

To the extent that there is agreement on the political objectives, it would be possible to adopt a step-by-step approach, starting from certain criteria to be met, as in the case for monetary union. In this connection, the drafting of a white paper on European security might make a useful contribution.

12. The intergovernmental conference must deal besides with many other areas in addition to the revision of Title V of the Maastricht Treaty, namely:

- the question of bringing into the community a third pillar of the Union (internal affairs and justice);
- possibility of enlarging the field of application of the European Parliament's procedure known as co-decision in the area of community legislation;
- the question of establishing a hierarchy of community laws;
- the possibility of extending the responsibilities of the European Union to energy, civil defence, tourism, and
- further to the European Council's decision at Corfu, review of the institutional operation of the Union with a view to its enlargement,

placing difficult and complicated tasks on countries participating in this conference, the most difficult one with potentially the most serious consequences being the revision of Title V of the Maastricht Treaty.

13. The preparation of the conference on the revision of the provisions of the CFSP, which includes the future rôle of WEU, involves, on the European Union side, participation by all its fifteen member countries, five of which: Austria, Denmark, Finland, Ireland and Sweden are not members of WEU. On the other hand, it appears that the WEU Council, for its part, envisages preparing all the questions relating to the future of the modified Brussels Treaty within the restricted framework of the countries that are party to it, which might give rise to dissatisfaction, not only on the part of the five countries referred to above, but also of associate member and associate partner countries.

14. Moreover, it must be recalled that the review of the provisions of the declaration of the WEU member countries annexed to the Maastricht Treaty will extend to relations between WEU and the Atlantic Alliance, which are of particular interest to associate members, such as Iceland, Norway and Turkey. In any event, the Council should insist on the principle that any debate on the future application of the modified Brussels Treaty be confined exclusively to the signatories

of that treaty. The consequence of this will be that the group of experts called upon to discuss the matter within the framework of the European Union, in its composition as decided in Corfu, can have no powers of decision in the case of the modified Brussels Treaty <sup>8</sup>.

15. Regarding the substance of the problems to be resolved, the aims to be pursued in the framework of a revision of the present provisions must first be determined. One of the deficiencies of the Maastricht Treaty lies in the fact that its signatories agreed in principle to create full monetary union within a specific time-frame without, at the same time, reaching a countervailing agreement on a true common policy on foreign affairs, security and defence. Many political leaders and experts, notably in Germany, but also in other European countries, are convinced that European monetary union will not be viable without a true common European policy in the other areas mentioned.

16. Furthermore, the need to implement a common security and defence policy cannot be based on this argument alone. What matters is finding a consensus on the purpose of building the European Union as a whole, otherwise the discussion on institutional questions becomes divorced from reality. If we wish to define the aims that WEU and its Assembly should pursue in this context several of them will have to be reconciled. Undeniably the strengthening of the security of member states and of their citizens and the protection of their fundamental rights as recognised by the modified Brussels Treaty and the Charter of the United Nations must remain a prime objective of the Council and Assembly of WEU.

17. In receiving associate members, associate partners and observer countries into the organisation, WEU has, in addition, undertaken to extend security to the whole of Europe. Strengthening security is therefore central to the fundamental work done by WEU, an example of which is the preparation of a white paper on security, and also to its efforts to become truly operational. However this aim must also be the recurrent theme of its strategy when it comes to settling the institutional questions on the agenda of the 1996 inter-governmental conference.

18. Secondly, strengthening the principle of democracy in a Europe which is organising its security and defence can be defined as another prime objective of the same value as that referred to in the foregoing paragraphs. Conversely, when the European Union sets itself the goal in Article B of the Maastricht Treaty of asserting its identity

8. Similarly Nicole Gnesotto observes (in *Politique étrangère* No.1/95, page 138) that "it is clearly unacceptable for a non-member country of a military organisation to be able, by indirect means, to determine the fate of that organisation".

on the international scene, one might wonder whether such an end is defined clearly enough to be the sole justification for the need to create a common foreign and security policy eventually including a common defence policy and, in time, a common defence.

19. For much remains to be done to reach agreement on the purpose the European Union should have in the world. Should it become a new world power, alongside the United States and Russia? What is the final aim of greater European integration? Or is integration an end in itself? Clearly all member countries cannot be expected to provide the same answer to these questions.

20. If integration is regarded not as an end in itself but rather as a means of strengthening security and democracy in Europe, one may then wonder what solutions are best adapted to these two aims. The question is also raised regarding the most suitable institutional instrument for strengthening the effectiveness and transparency of the European institutions in accordance with the wishes of the vast majority of those concerned.

21. More specifically, in relation to the future organisation of the external security and defence of the Union, many feel that the existing system is too complicated, that it involves too many institutions and that, consequently, it is necessary to rationalise and regroup powers within a single organisation. The problem in carrying out such an undertaking is to ensure that it does not weaken security in view of the increasing number of applicant countries wishing to participate in a new European security architecture but whose respective political positions and military situations are not homogenous.

22. Another aim often put forward is that of remedying the alleged democratic deficit in relation to control over decision-making processes within the framework of the European Union, but also in WEU, the Assembly of which has only a consultative function and is composed of delegations from national parliaments, while the European Parliament, composed of parliamentarians elected by direct universal suffrage, hopes to exercise rights of co-decision in security and defence matters or even to replace the WEU Assembly entirely for these questions.

23. Finally, there are two difficult problems to resolve if one wishes to improve the structures ensuring European security: one is that of future transatlantic relations and the rôle of the United States in Europe, and the other, closely linked to the first, is the question of enlargement to the east, including the place Russia might occupy in that system to satisfy its legitimate security interests.

### *III. Different concepts for linking the defence dimension with the European Union*

#### *(a) The community concept*

24. The concept of bringing European foreign policy, security and defence (and also internal affairs and justice) into the community corresponds to the idea of building Europe, which would no longer be based on different pillars (community and intergovernmental), but according to which the European Commission would evolve towards a truly European government, possessing all the powers that are characteristic of national governments.

25. In this version of Europe, the rôle of the governments brought together in the Council would be reduced to that of a second chamber along the lines of the German Bundesrat, while parliamentary supervision would be entrusted to the European Parliament alone, elected by direct universal suffrage, the rôle of the national parliaments alongside the European institutions not being clearly defined. The concept of straightforward incorporation in the community is upheld primarily by the European Parliament and also enjoys widespread support in German political circles, as testified in a paper on thoughts about European policy, published by the CDU/CSU parliamentary group of the German Bundestag in September 1994.

26. This document does not however set out very clearly the need to bring the CFSP and the defence dimension into the Community. It states that now is in fact the time to introduce a common defence and it therefore advocates that the 1996 conference "reorganise" relations between WEU and the European Union, but without stating how. The communitarisation of the CFSP has moreover supporters amongst the governments of the Netherlands and Belgium, which are nevertheless cautious about the real possibility of its being implemented during the 1996 intergovernmental conference. In a report submitted on 30th March 1995 on behalf of the consultative committee responsible for European questions of the House of Representatives of Belgium, Mr. Eyskens considers it desirable in principle for WEU to be integrated into the European Union. However, he doubts that this transformation will come into effect in 1998.

27. Other more concrete proposals have been made in this connection. Mr. Jean-Marie Guehenno, representative of France to WEU, observes in a recent article on European security: The impossible status quo<sup>9</sup>, "Some even imagine that the Secretary-General of WEU is also the European Commissioner responsible for the CFSP"; as had

9. *Politique étrangère*, January 1995, page 29.

already been suggested by Mr. Bourlanges, rapporteur of the Committee on Institutional Affairs of the European Parliament<sup>10</sup>, to the effect that WEU's "Secretary-General should be the Commission Vice-President responsible for international action..."

28. Such an approach does not of course pre-judge the Council's ultimate powers of decision-making in an intergovernmental context and consequently safeguards the principle of member states having responsibility for decisions to be taken in security and defence matters. Nevertheless, this approach, in granting the Commission not only the right to initiate but also executive responsibility in this area, regarded by many member states as going to the heart of national sovereignty, tends towards attainment of a political aim, namely communitarisation of defence by an ad hoc institutional measure; it in no way resolves the fundamental divergences on whether defence Europe should be organised in a community or intergovernmental fashion.

29. Hence the implementation of such a proposal, far from strengthening effectiveness, would cause greater confusion regarding the areas of responsibility of the various institutions of the Union. Causes of this confusion are moreover to be found in the wording of Title V of the Maastricht Treaty which shows clearly that it was impossible to overcome fundamental disagreements. To increase the confusion over the respective areas of responsibility of the Community and intergovernmental institutions might paralyse the decision-making process. This also holds good for the proposal made by the Netherlands Government on 30th March 1995 concerning increased participation by the Commission in the work of a strengthened CFSP unit in the framework of the Secretariat of the Council or of a new CFSP body.

30. So far, no member government of the European Union or of WEU has proposed a sophisticated concept for bringing Europe's defence dimension into the Community, but it is clear that certain states categorically reject this idea. The report published on 6th April 1995 by the Council of the European Union on the functioning of the Treaty on European Union therefore limits itself to advocating: "As regards preparation for decision-making [in the CFSP area], it is necessary for the bodies and structures of the old EPC [European political co-operation] to be properly integrated into the single institutional framework provided for by the TEU [Treaty on European Union]". The European Commission itself on 10th May 1995 published a report on the operation of the Treaty on European Union, the aim of

10. See the draft report of the Committee on Institutional Affairs of the European Parliament on the operation of the Treaty on European Union with a view to the 1996 intergovernmental conference - implementation, 10th April 1995.

which was to make an assessment rather than put forward proposals. Regarding the operation of the CFSP, this report concludes that:

"The very fact that two different working methods – the Community approach and the intergovernmental approach – coexist in the same treaty is a source of incoherence. Experience has confirmed the fears previously expressed on this subject. The single institutional framework which was supposed to ensure harmony between the various 'pillars' of the treaty has not functioned satisfactorily. The proper lessons have to be drawn."

The European Commission considers that: "The Union must develop a genuine common foreign policy commensurate with its economic influence and equipped with effective decision-making machinery;". The European Commission therefore gives a highly critical assessment of the division of the Union's areas of action into different "pillars". It also considers that the link with WEU has not worked satisfactorily.

31. The study undertaken by the European Strategy Group and the WEU Institute for Security Studies entitled "Towards a common defence policy" analyses the possibility of merging the Treaty on European Union and the WEU Treaty. The authors feel that "the strictest institutional coherence would require that all policies (the CFSP, the CDP and the CD included) should be *communitarised*". But they rightly acknowledge that "this option, however, seems difficult to achieve, both because not all the EU members are prepared to accept the commitments deriving from Article V of the modified Brussels Treaty and because it would require a major transfer of national sovereignty to the EU to guarantee the effectiveness of a CD."

32. Even Mr. van den Broek, the European Commissioner for foreign affairs and security, stated before a committee of the European Parliament in early January 1995 that the introduction of the defence component might be facilitated by retaining WEU as a separate structure<sup>11</sup>. Moreover, it appears that a study prepared at the request of this same commissioner by the high level group of experts on the CFSP concluded in December 1994 that foreign policy, security and defence issues were special cases, to which it was impossible to apply the "community" formulas which had proved their worth in the economic sphere, but were not to be imitated in the area which concerns us here.

33. Your Rapporteur, who does not endorse extending the community process to European defence, feels it necessary nevertheless to add the

11. Europe, No. 6392, 6th January 1995.

following considerations: in order to understand why German policy is particularly favourable to the "community" concept of European defence, it must not be overlooked that herein lies the expression of the firm intention of a united and consequently much more influential Germany, vis-à-vis its European partners, to be integrated wholeheartedly into Europe so as to avoid its increased influence leading to a renationalisation of defence policy and/or a possible return to a policy of ad hoc alliances in Europe the consequences of which that continent suffered up to the end of the second world war. Paradoxically, Germany's determination to be integrated into Europe and even to be subject to decisions taken by qualified majority in cases where Germany was in a minority is often used by opponents of the community system as an argument against the Germans, to the effect that such a system would automatically lead to Germany dominating Europe. Advocates of a community system on the other hand at times criticise the intergovernmental system, arguing that the latter would also facilitate German domination in another manner ...

34. It is to be hoped that the British Foreign Secretary, Mr. Hurd, was right when he stated in a speech in Berlin on 28th February 1995 that one should not fear being driven to a choice between two extremes: far-reaching integration on the one hand and competition between nation states on the nineteenth century model on the other. In his view, a balance must be found between the system introduced with the single market and community institutions on the one hand and the survival of the nation states on the other. This approach seems more reasonable than the endeavours of another British minister who attempted, in an article in the German press, to convince public opinion in that country that nationalism as such was not such a bad thing<sup>12</sup>. Almost simultaneously, Mr. Mitterrand, the outgoing President of the French Republic, stated in his last speech to the European Parliament that nationalism was war<sup>13</sup>.

35. In any event, it now seems that it will prove impossible at the 1996 conference to overcome the differences between those in favour of making all the Union's areas of activity a Community matter and those who prefer the intergovernmental system in certain matters and particularly defence. However, according to Mr. Guehenno "the present ambiguity, which holds out the possibility of future European integration, without truly implementing it, cannot be maintained for any length of time"<sup>14</sup>. However this does not mean that the intergovernmental conference is

12. David Davis, *Frankfurter Allgemeine Zeitung*, 17th January 1995.

13. *Le Figaro*, 18th January 1995; *Le Monde*, 19th January 1995.

14. *Politique étrangère*, January 1995, page 27.

condemned to failure. It is possible to make considerable progress while retaining an intergovernmental approach.

36. For, as matters now stand, it is essential to bring the views of states together, not to deprive them of their ability to assess the situation and decide on action. It is a matter of facilitating their decision by assuring them that they will have the necessary means to act. To subordinate all action to bodies which accept only collective action would leave Europe completely powerless.

*(b) Intergovernmental concepts*

37. A gradation of such concepts is to be noted. First, let us consider those closest to the Community system and subsequently those which opt more in favour of maintaining the autonomy of existing institutions, practically without change.

*(i) Merger of WEU and the CFSP (second pillar of the European Union)*

38. On 8th March 1995, the German Minister for Foreign Affairs, Mr. Klaus Kinkel, stated he was in favour of a merger between the European Union and WEU. He advocates that Germany and France co-operate closely in this connection and convince their partners of the necessity of this measure which would constitute further progress towards European integration<sup>15</sup>. Although the German minister does not enter into the detail of the practical arrangements for this merger, his proposal makes clear that it falls within the framework of the development of the CFSP and therefore within the existing intergovernmental domain. However, it does not rule out the fact that decisions might be taken by qualified majority, which has not hitherto been the case in defence matters.

39. In emphasising that the development of the Eurocorps, the fledgling European army, was a model for co-operation in defence matters, of great interest to many European Union member states, the German minister opened the door to multifarious conjecture as to the authority under which this body should be placed after any merger between the European Union and WEU. This statement might therefore be interpreted as a proposal for incorporating WEU into the second pillar of the European Union, namely the CFSP, as it introduces the possibility of decision-making in defence matters by qualified majority.

40. In an interview with *Le Figaro* on 16th March 1995, and at the end of March, in the framework of the Königswinter conference, the traditional meeting-place of British and German officials, Mr. Kinkel repeated his proposal for

15. *Die Zeit*, 10th March 1995.

merging WEU and the European Union<sup>16</sup>. He stressed that the European Union should develop its ability to act in this area of the CFSP and rapidly adopt clear positions. "This is why majority decisions in foreign policy should no longer be taboo". He added that "those demanding this new procedure should, in all honesty, state that they will accept majority decisions even when they are contrary to their own preference!" Mr. Kinkel also replied affirmatively when asked whether it was necessary to create a European foreign affairs ministry.

41. In this context, it should be recalled that the report of the Council of the European Union on the operation of the Treaty on European Union states that, since the entry into force of this treaty, unanimity is the rule and that qualified majority voting, the use of which is made possible by Article J.3, paragraph 2 of the Treaty on European Union, has not been used.

42. According to information appearing in the American and French press<sup>17</sup>, the German Government is currently preparing to take a position along the lines referred to in paragraph 40; it will reach its decision towards mid-June 1995. According to the press articles mentioned, the German Government would appear to be considering providing the Secretary-General of the Council of the European Union with a "working unit" similar to a forecasting and analysis centre. The Secretariat-General would act as a transmission link between the European Council and the Commission in Brussels and might eventually in the longer term be brought together with the WEU Secretariat-General, having itself been merged with the European Union.

43. According to a report by the Netherlands Government on the CFSP of the European Union, transmitted on 30th March 1995 to the Netherlands Parliament, Germany's idea of introducing, when possible, majority decision-making for adopting a common action deserves serious consideration. The Netherlands Government states in this respect that this would be "majority decision-making within an *intergovernmental* context. This must be distinguished from majority decision-making within the *Community* framework, which is a process based on the Commission's exclusive right of initiative..." It feels however that "communitarisation of the CFSP along these lines may be an option for the longer term."

44. On the basis of these considerations, the Netherlands Government is examining the different approaches to absorption of WEU in the European Union, for which it expresses its preference in principle. While giving greater weight to

16. See AFP, 30th March 1995.

17. Wall Street Journal Europe, 9th May 1995 and Le Monde, 18th May 1995.

the Community approach, the Netherlands Government is endeavouring to draw closer to Germany on this point. It thinks however that in view of the tension resulting from differences between the Community and intergovernmental points of view, it will be necessary to seek solutions where elements of a Community approach are combined with the needs of member states that wish to retain an intergovernmental concept of the CFSP. All these considerations are leading the Netherlands Government to opt for WEU's integration into the second pillar of the Union (the CFSP) which has "the advantage of smoothing the transition from CFSP to a common defence policy..."

45. The Netherlands Government nevertheless feels that "given the complexity of the problems mentioned above, it does not seem possible to achieve full integration of WEU in the EU in the short term. While the former will therefore continue to exist as a separate organisation for some time to come, the IGC ought nevertheless to take the first steps towards full integration." Your Rapporteur has developed in paragraphs 28 and 29 above the reasons why she believes that the attempt to mix Community and intergovernmental responsibilities in this way over a transitional period can only lead to increased confusion and growing difficulties in the decision-making process and can in no way improve its effectiveness and transparency.

46. The same holds true for the proposal made by the Prime Minister of Belgium, Mr. Dehaene, in an address given to the Collège d'Europe in Bruges<sup>18</sup>. He suggested WEU being associated with the European Union through the establishment of a common budget, the merging of the Secretariat with the CFSP and the presidencies being held by one and the same country.

47. The creation, on NATO lines, of a high-level secretariat for the CFSP, which would also be responsible for WEU affairs, was proposed as far back as October 1994 by the Italian Minister for Foreign Affairs, Mr. Antonio Martino. The appointment of a Secretary-General for the CFSP has also been suggested by Mr. Lamassoure, French Minister for European Affairs and by Mr. Aznar, Chairman of the Spanish People's Party. However the latter two do not specify whether the Secretary-General in question should have responsibilities for WEU. Nor do the three proposals settle to what extent this secretary-general should or should not have duties separate from those of the Secretary-General of the Council of the European Union, already in office.

48. Certain considerations put forward by the European Strategy Group and the WEU Institute for Security Studies on bringing WEU in as a true

18. La Libre Belgique, 24th March 1995.

component of the European Union<sup>19</sup> also fall within the scope of the merging of WEU with the CFSP. According to this thinking:

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

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

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

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

49. The high-level group of experts on the CFSP set up by Mr. van den Broek, European

Commissioner responsible for European common security policy, proposed at the end of December 1994 creating “permanent central analysis and evaluation capability in Brussels, ... endowed with the necessary study and information capacity ... directed by a political personality designated along the same lines as that for the President of the Commission (European Council and European Parliament) and thus benefitting from sufficient authority, independence and duration in office.” The group proposes, *inter alia*, that such a person should bring together, within a common framework, the tripartite expertise of the Council of the Union, the European Commission and of WEU.

50. A like idea was taken up in an address by Mr. Jacques Poos, Deputy Prime Minister, Minister for Foreign Affairs of Luxembourg, on 3rd April 1995, to the Royal Institute of International Relations in Brussels in which he stressed that the Commission should be associated with this unit of analysis and take on a more active rôle, if only because of the global nature that security policy is likely to have in future. The Netherlands Government is calling for a strengthening of the CFSP unit by proposing that the body within which the CFSP is prepared should be detached from the Council Secretariat which has responsibility for preparing all Councils of Ministers. Such a body, possibly under the authority of a Secretary-General, might be exclusively dedicated to the CFSP. According to the Netherlands Government, the Commission should participate in the work of such a strengthened CFSP unit.

51. Conversely, a report submitted by Mr. Eyskens on 30th March 1995, on behalf of the consultative committee responsible for European questions of the House of Representatives of Belgium, takes the view that “one must avoid stronger institutionalisation of the CFSP leading to the creation of a sort of ‘high authority’ responsible for the CFSP, in parallel with the Commission and to the latter’s detriment”.

52. Summarising all the known initiatives so far for merging WEU with the CFSP, it has to be admitted that none of them offers viable solutions for overcoming the various dilemmas facing the intergovernmental conference:

- no state will accept that its soldiers should sacrifice their lives on the basis of a qualified majority vote<sup>20</sup>;
- the problem arising from the fact that five states of the European Union are not prepared to become full members of WEU has not been resolved;
- the question of the participation of associate member countries such as Iceland,

19. Towards a common defence policy, March 1995.

20. Nicole Gnesotto in *Politique étrangère*, January 1995.



Norway and Turkey in WEU once the latter has merged with the CFSP, has not been decided;

- the difficulty of achieving coincidence between the WEU and European Union presidencies still remains;
- the confusion between the respective areas of responsibility of the Community and intergovernmental institutions would increase, at the expense of the effectiveness and transparency of the decision-making process;
- the different aspects of merging the treaties or of incorporating the modified Brussels Treaty in a new treaty of the Union have not been developed;
- the question of democratic control over WEU when merged with the CFSP will necessarily aggravate the problem of the respective areas of responsibility of the WEU Assembly and of the European Parliament.

53. Under such conditions, it is difficult to imagine that a merger of WEU and the CFSP based on the introduction of a qualified majority vote for defence matters, in connection with the second pillar of the European Union might lead to a strengthening of security, democracy, effectiveness and transparency within the Union.

(ii) *The creation of a fourth pillar of the European Union*

54. Conversely, study of the merger between WEU and the European Union within the framework of intergovernmental structures might lead to the idea of creating a fourth pillar of the European Union: to the second pillar – common foreign and security policy, and third pillar – internal affairs and justice, would be added a “defence pillar”. In this connection, the United Kingdom press initially gave to understand (in autumn 1994<sup>21</sup>) that the government of that country would be prepared to accept a fourth pillar, but the United Kingdom Prime Minister announced at the beginning of March 1995 that his government rejected this model in favour of pursuing the development of WEU in a structure separate from that of the European Union<sup>22</sup>. For different reasons, the Netherlands Government is of the opinion that the creation of a fourth pillar within the Treaty of European Union seems to have few advantages<sup>23</sup>.

21. The Guardian, 27th October 1994.

22. Memorandum on the United Kingdom Government's approach to the treatment of European defence issues at the 1996 intergovernmental conference, 1st March 1995.

23. See report on the CFSP, transmitted by the Netherlands Parliament on 30th March 1995.

55. Notwithstanding the United Kingdom and Netherlands positions, it might be assumed that WEU's incorporation into a new pillar of the European Union will be an issue in one way or another in the 1996 negotiations. It is necessary therefore to examine the problems and implications of such a model. According to the study of the European Strategy Group of the WEU Institute for Security Studies referred to previously, the 1996 conference “could follow the Maastricht path, choosing to strengthen a *single Union with multiple pillars*, and making WEU a formal pillar of the EU like the monetary union and maintaining distinct decision-making rules inside it. This approach might gain the support of several member countries but would require a significant rewriting of both treaties.” According to this study, “it is unlikely, and it would be imprudent for the next IGC to make such an effort without a careful appraisal of further experience and of various possible decision-making procedures.” If WEU were to become one of the pillars of the European Union, the first question to be raised would be the fate of the modified Brussels Treaty. One might envisage, as the European Parliament has proposed, incorporating the “fundamental elements” of the modified Brussels Treaty into the new Treaty on European Union<sup>24</sup>.

56. But what are the fundamental elements of the modified Brussels Treaty that should be preserved? The only thing which is clear in this respect is that the European Parliament wishes to see a change to Article IX so that the powers granted under this provision to the WEU Assembly are transferred to it. Several other questions are also raised: account must be taken of the fact that five members of the European Union are not ready to commit themselves fully to co-operation in WEU. While the European Parliament considers that a different (unspecified) solution must be found for member countries of the Union which are not full members of WEU, certain groups of experts of the European Commission feel it necessary to foresee a new institutional mechanism according to which WEU would retain only its collective defence function under the terms of Article V of the modified Brussels Treaty. Such a concept is, however, contrary to the recently publicised United Kingdom position, according to which the collective defence of Europe should remain the principal task of NATO, while WEU should concentrate on the “Petersberg” missions, namely humanitarian, peace-keeping and peace-enforcement missions<sup>25</sup>.

57. Although technically it is not difficult to incorporate all or part of the modified Brussels

24. See the Poettering report, European Parliament document A3-0109/94, adopted 24th March 1994.

25. Memorandum on the United Kingdom Government approach to the treatment of European defence issues at the 1996 intergovernmental conference, 1st March 1995.



Treaty in a new title of the Treaty on European Union (in the same way as all the treaties setting up the European Community, the Coal and Steel Community and the European Atomic Energy Agency have been incorporated in it), the aforementioned example shows that a complex discussion of the use or need of each of these provisions is likely.

58. In order to avoid this type of discussion, whose result cannot be foreseen, at the 1996 conference, one might be tempted simply to follow the United Kingdom suggestion<sup>26</sup> of 1st March 1995, which would allow WEU to pursue its development independently of the structures of the European Union, but in close co-operation with them. However, this solution would not exempt WEU from the obligation of re-examining the provisions of its own treaty and of the Maastricht Treaty, a review which should extend to relations between WEU and the Atlantic Alliance. WEU is, in point of fact, the only European institution with a contractual link with the Atlantic Alliance from which the whole of the European Union might benefit, the more so, the closer WEU draws to that organisation at institutional level.

59. Furthermore, as mentioned above, the pressure that will be exerted by certain countries and interested institutions of the European Union to bring about the "absorption" of WEU by the Union will continue to be very strong on account of a perspective that is very widespread, particularly in Germany, that any stagnation in European integration has to be regarded as a reversal of that process.

60. If we wish to advance – in the root meaning of the word – European Union, an initial pitfall must be avoided: the 1996 intergovernmental conference must not degenerate into a competition between interested institutions where each is endeavouring to ensure its survival or increase its powers and areas of responsibility according to Montesquieu's sociological law. Hence, "large organisations", which are powerful and structured, tend to seek to stifle any activity by another organisation automatically perceived as a "competitor" even when it is of negligible weight and its field of action is different<sup>27</sup>. It is therefore necessary first to agree the main aims of a revision of the provisions of the Maastricht Treaty relating to security and defence matters and the criteria to be followed to achieve such aims.

61. Any review tending towards WEU's possible transformation into one of the pillars of the

European Union must be motivated by the primary intention of guaranteeing and strengthening the security of European citizens and not of reducing or weakening it. There can therefore be no question of in any way lessening the scope of Article V of the modified Brussels Treaty. Above all, it would be unacceptable to use possible weakening of the scope of this article to facilitate the entry into WEU of five countries, Austria, Denmark, Finland, Ireland and Sweden, or to make it easier to enlarge WEU to include the countries of Central Europe. It would be equally dangerous to opt to follow a policy the aim of which was to make NATO the only organisation responsible for the defence of Europe on the sole basis of Article 5 of the Treaty of Washington, which imposes less stringent obligations than Article V of the modified Brussels Treaty, while WEU's main task became no more than implementing Petersberg-type missions. Now if NATO military structures are the only guarantee of the allies' collective commitment, any withdrawal of American forces, if confirmed, would put an end to that structure. If the intergovernmental conference were to decide to include the mandate provided for under Article V of the modified Brussels Treaty in the Treaty of Maastricht, legitimate collective defence would then be the responsibility of the European Union and WEU would become its defence pillar<sup>28</sup>. According to the Netherlands Government report referred to earlier on the foreign, security and defence policy of the European Union, most member states, including the Netherlands, will consider that there can be no common defence policy without mutual obligations, even if that does nothing to change the fact that the implementation of such a policy continues to be the responsibility of NATO.

62. Conversely, there are still many underlying uncertainties and misunderstandings about establishing the conditions necessary for decision-making on crisis-management, peace-making or peace-enforcement outside the area of application of compulsory mutual assistance. Admittedly there is no treaty that obliges European nations to take joint decisions in the areas just mentioned. The Netherlands Government therefore rightly emphasises the need for stronger external action on the part of the European Union "primarily... because contemporary problems exceed, to an increasing extent, the capacity of individual countries to make an appropriate response." But it is debatable to present matters as if the tasks referred to above did not derive explicitly from the modified Brussels Treaty. It is therefore necessary to reiterate the terms and emphasise the scope of Article VIII, paragraph 3, of the

26. Memorandum on the United Kingdom Government approach to the treatment of European defence issues at the 1996 intergovernmental conference, 1st March 1995.

27. *De Defensa*, 10th April 1995, Volume 10, No. 14, page 14.

28. See "Towards a common defence policy", a study by the European Strategy Group and the WEU Institute for Security Studies, March 1995.

modified Brussels Treaty<sup>29</sup>, which should be preserved in its entirety and applied in the event of WEU being incorporated into a fourth pillar of the Union.

63. The major advantage of this provision lies in the fact that the WEU member states and (in the event of its incorporation into a new treaty on the Union) those of the Union are free to commit themselves or not in joint action out-of-area and situations covered by mutual assistance obligations. Consultations on the basis of Article VIII, paragraph 3, of the modified Brussels Treaty can therefore lead to a decision on joint action without obligation to participate therein, but also without the possibility of blocking it by a veto. This procedure enables certain countries to abstain but also to delegate to others the power of acting on behalf of WEU, as was the case in the Gulf and in Bosnia.

64. Moreover, it is necessary to maintain and strengthen suitable means for ensuring transatlantic co-operation within the framework of NATO, as expressly provided for in Article IV, paragraph 1, of the modified Brussels Treaty. The contractual link must not be affected by efforts to extend the range of transatlantic co-operation to other areas on the basis of future provisions. Closer co-operation with NATO should become obvious in particular when it is a question of harmonising points of view on the enlargement of European and transatlantic institutions, in particular towards the East. This subject will be examined further in a subsequent chapter. In any event, Article XI, governing the conditions under which other states might be invited to accede to the modified Brussels Treaty, must be retained.

65. Inter alia, the fate of Protocols II and III and Protocol IV on the Agency for the Control of Armaments, based on Article VIII, paragraph 2, of the modified Brussels Treaty must be determined. In this connection, your Rapporteur supports the proposal for the elimination of the Agency for the Control of Armaments presented by the Assembly in June 1991 in its Recommendation 504 on the revision of the modified Brussels Treaty on a report by Mr. Goerens<sup>30</sup>.

66. In the event of the main parts of the modified Brussels Treaty being transferred to a new revised treaty on European Union, it will be absolutely essential to study the consequences of this at institutional level and at the level of the decision-making process. Similarly, in the event of a merger of WEU with the second pillar of the

29. Article VIII, paragraph 3 states " At the request of any of the high contracting parties, the Council shall be immediately convened in order to permit them to consult with regard to any situation which may constitute a threat to peace, in whatever area this threat should arise, or a danger to economic stability. "

30. Document 1261.

European Union (the CFSP), the specific problem will need to be resolved of the five countries which are no more prepared to take on more binding commitments in defence matters within the framework of a revised treaty on European Union than they are at present to accede to the modified Brussels Treaty. Furthermore, a solution must be found for WEU associate members, namely Iceland, Norway and Turkey, which, through the " defence " pillar should be enabled to obtain the same status as member countries, without necessarily participating in the CFSP pillar in its present configuration.

67. According to the opinion which the Netherlands Government submitted to the Netherlands Parliament on 30th March 1995, a form of association of these countries with the European Union might be envisaged. " This may involve no more than a new fourth pillar but, given the fact that common defence policy and the CFSP are closely interlinked, it may extend to the second pillar, especially if the common defence policy ultimately takes shape within it. This question is especially relevant in view of the special position of Turkey, and it therefore merits particular attention during the preparations for the IGC. " Indeed, this question will become crucial if the eventual full integration of the " defence dimension " into the Union is envisaged.

#### *Implications for the executive*

68. Among the various models considered, the one developed in the study of the European Strategy Group and the WEU Institute for Security Studies, published in March 1995, deserves particular attention. According to this model:

" Since all members of the EU are represented within WEU, a Defence Policy Council could meet in the same configuration as the EU Council of Ministers does for the CFSP, adding defence ministers; only member countries of the modified Brussels Treaty would have the right to vote, whereas the others would not be obliged to adopt the Council's decisions, yet have the possibility of associating themselves with the policies decided on. Participation in meetings of the Council would be in accordance with the agenda: discussions related to Article V or concerning relations with NATO would not be open to WEU non-member countries, in line with current WEU practice. Similar rules would apply in meetings of subsidiary bodies of the Defence Policy Council, including those of high-ranking officials from capitals dealing with the CFSP and defence (the EU's Security Group and WEU's Special Working Group could then be combined). As there are already permanent representatives to

WEU, a second Committee of Permanent Representatives dealing with defence policy would have to be set up in the EU; this would not necessarily imply the creation of two delegations from each EU member state, as the second ambassador could be a member of the national representation to the EU."

69. The authors of this study rightly wonder: "What will happen concerning the associate members or associate partners that already participate in the working of WEU but will not all become full members of the EU in the near future?" Without being able to give definite answers – which is not surprising given the complexity of the problems to be handled – the authors take the view that:

"Arrangements will have to be made for these countries, which of course cannot be deprived of their present rights in WEU. The answer will not be easy to the extent that the EU, for reasons of homogeneity, does not have a comparable associate status. It might be useful to devote some thought to the introduction of such a status for non-member countries so that they can participate in the intergovernmental pillars of the EU. Another problem, closely related to the former, is worth considering if it is decided to incorporate WEU into the EU: can the EU become a European pillar of the Atlantic Alliance if its members are not all members of the alliance and if some European NATO allies are not members of the EU?"

70. Again, according to the abovementioned study:

"The WEU Secretariat... could become a subdivision of the EU Council Secretariat as a specialised directorate for defence policy. The Planning Cell, which would only respond to the Defence Policy Council, could be collocated with the EU Council Secretariat."

71. As paragraphs 46 to 50 above have already shown, there are other proposals for creating a high-level secretariat for the CFSP, separate from that of the Council of the Union, but at the same time responsible for WEU affairs. Conversely, Mr. Guéna, in his report on behalf of the delegation of the French Senate to the European Union on the anticipated reform in 1996 of the European Union institutions<sup>31</sup> suggests the creation of a secretariat-general for each pillar of the Union, whereas the group of experts formed by Mr. van den Broek has proposed the creation of a central analysis capability bringing together the tripartite

expertise of the Council of the Union, WEU and the Commission. The involvement of the latter in defence matters nevertheless raises very wide controversy.

72. The authors of the study by the European Strategy Group of the WEU Institute for Security Studies already referred to are very aware that certain member countries are most reluctant to see the responsibilities of the European Commission extended to defence policy matters. They recognise therefore that it might prove difficult to reach agreement on a mechanism that is differentiated from the existing CFSP procedures (where the Commission has a non-exclusive right of initiative). In their opinion, "a right to put forward proposals would, as an alternative, be given to the EU Council Secretariat, specifically to its specialised Defence Directorate. This would not be exclusive, as the member states would themselves have the right to put forward proposals." Indeed, the question as to whether the European Commission should acquire a responsibility in the event of WEU being incorporated into a fourth pillar of the Union, which would remain purely intergovernmental and would take decisions on a unanimous basis, will be crucial in assessing the acceptability of such a model.

#### *Parliamentary supervision*

73. Parliamentary supervision is the issue which will raise the most acute controversy in the event of WEU being incorporated into the European Union, even if it is to be integrated into a purely intergovernmental "defence" pillar and separate from the CFSP in its present form. There are many and various proposals for improving democratic supervision of defence and security policy.

74. Before examining them, it is necessary to stress that the Assembly of WEU considers strengthening democratic supervision to be a crucial factor in building the European Union as a whole, which, ten years hence, will perhaps include some 25 member countries, the population of which, in excess of 450 million inhabitants, will be far greater than that of the United States, Russia or the Community of Independent States. The problem of effective and representative democratic supervision of such a vast area, with increasingly powerful executive bodies, therefore goes beyond the simple choice between a Europe, in particular a defence Europe, organised on a "community" model or one on intergovernmental lines.

75. Apart from this question, the following point must be examined: if one truly wishes to work for democracy in a unified Europe, must one really limit oneself to asking repeatedly for the powers and rights of the European Parliament alone to be strengthened? Indeed, the majority of

31. The 1996 reform of the institutions of the European Union, Volume I, No. 224, 1994-95, pages 32 and 37.

the large democracies of Europe and North America, some of which have very old traditions, have preferred to ensure democratic supervision of the executive through a bicameral parliamentary system. Is it even thinkable therefore that the European Parliament should be the only parliamentary body of the European Union responsible for supervision of the European executive?

76. It must be realised that the direction the intergovernmental conference will take when settling the question of parliamentary supervision of the future defence Europe will have decisive consequences for the subsequent development of the parliamentary dimension of the entire European Union.

77. The approach chosen up to now by the Maastricht Treaty in drafting Article J.7 of Title V was to have the European Parliament intervene progressively in the area of common foreign and security policy, in other words, not only in a fundamentally intergovernmental arrangement, but also in an area which includes the eventual definition of a common defence policy, WEU being responsible for working out and implementing decisions and actions of the Union which have implications in that area. Yet according to Article IX of the modified Brussels Treaty, it is to the WEU Assembly alone that the Council of that organisation is obliged to submit a report on its activities. Further to Article J.11, the European Parliament has also obtained a right of budgetary co-decision over CFSP matters. Hence Mr. Guéna rightly observes in a report published on 15th February 1995 on behalf of the delegation of the French Senate to the European Union<sup>32</sup> notes that the association of the European Parliament "with a fundamentally intergovernmental policy leads to a blurring of responsibility and institutional confusion, an ongoing source of procedural difficulty ... the Maastricht Treaty has initiated a mixing of the species which has proved to be a source of confusion and has aroused paralysing procedural controversies."

78. Several proposals seek to overcome present ambiguities. The European Parliament initially favoured a solution providing for the latter to replace the WEU Assembly completely, both at the level of plenary sessions and at committee level, the powers and voting conditions of the European Parliament being defined by the intergovernmental conference<sup>33</sup>. This concept is supported, inter alia, by Mr. Eyskens, who wonders in the report already referred to whether the parliamentary Assembly of WEU should not be composed of members of the European Parliament.

32. The 1996 reform of the European Union institutions, Volume I, Senate Report No. 224.

33. See the de Gucht report adopted on 24th February 1994.

79. None of these considerations provides an answer to the question of how members of the European Parliament elected by direct universal suffrage and remote from national electorates can claim to exercise supervision over decisions which are taken exclusively in a national and intergovernmental framework. The only answer is perhaps to be found in the hypothesis voiced by advocates of this solution, to the effect that security and defence will ultimately be integrated in supranational, indeed "communitarised" executive bodies.

80. However, other problems are raised in this context: the first is linked to the existence of a variable geometry Europe and the other to the fact that national parliaments are claiming increased supervision over the development of decisions at European level, even in the purely "community" domain. In an attempt to resolve the first problem, Mr. Bourlanges, Rapporteur of the Committee on Institutional Affairs of the European Parliament<sup>34</sup> observes that:

"The foreseeable emergence of restricted circles of integration in the areas of monetary union, WEU or the Schengen area poses a serious threat to the very existence of parliamentary control. Whenever Union policies are pursued within a specific institutional framework and for a period of several years by a restricted number of member states, it is therefore vital to set up an ad hoc body to exercise parliamentary control. *Such ad hoc bodies* which would have to be restricted in size and composed exclusively of members of the European Parliament from the member states concerned, could be administered by the secretariat of the European Parliament, which would thus play a pivotal rôle in a genuine *European system of parliamentary control (ESPC)*"

81. It must first be noted that this proposal in no way resolves the problems due to the existence of associate member and associate partner countries which have parliamentary representation in the WEU Assembly, but not in the European Parliament since they are not part of it. Second, it does not provide for any participation by national parliaments in the "ad hoc assemblies".

82. In a report submitted in the context of the French National Assembly, two deputies, MM. Catala and Ameline<sup>35</sup> envisage the creation of an

34. See the draft report of the Committee on Institutional Affairs of the European Parliament on the operation of the Treaty on European Union with a view to the 1996 intergovernmental conference - implementation, 10th April 1995.

35. What reforms for tomorrow's Europe?, French National Assembly, delegation to the European Union, Information Report No. 1389, 8th February 1995.

interparliamentary committee with the participation of the national parliaments in the decision-making process of the Union and composed of an equal and small number of representatives per member state. "This committee would also constitute the appropriate parliamentary supervisory authority for the restricted circles set up in currency and defence matters". In these areas the function of such committee would be consultative, whereas it would have a decision-making power as regards treaty revision, the application of Article 235 of the treaty establishing the European Community<sup>36</sup>, international agreements and the enlargement of the Union, the budget, income and internal and judicial matters.

83. This idea is undoubtedly interesting, but it should be recalled in this connection that in the matters in which this committee would have consultative responsibilities, the WEU Assembly with its present structures could be used perfectly well, whereas the second area of responsibilities envisaged for this committee would raise – as the authors themselves recognise – awkward problems in connection with determining the conditions under which the national parliaments make their views known in this committee and the need to avoid the European Parliament and the committee mutually paralysing each other.

84. If it is wished to maintain democratic and representative supervision in the framework of a European Union which is to be enlarged considerably in a foreseeable future, it is necessary to create a bicameral system which facilitates such supervision and does not lead to a stalemate. It is therefore necessary to establish clearly the responsibilities of the parliamentary institutions in question. Conversely, one must reject any proposal tending to create mixed parliamentary institutions such as the one which envisages representatives of national parliaments sitting in the European Parliament alongside members elected by direct universal suffrage.

85. This solution would not only have the disadvantage of creating a two-speed Assembly, but, far from improving efficiency, would contribute also to a blurring of responsibilities. The same holds true for the proposal developed in Chapter V of the study by the European Strategy Group and the WEU Institute for Security Studies which envisages replacing the WEU Assembly by a newly-created joint parliamentary committee on European defence, composed of representatives of the European Parliament and members of the

security and defence committees of the various national parliaments. Conversely, this study rightly points out that the present composition of the WEU Assembly, being dependent on that of the Parliamentary Assembly of the Council of Europe, does not have any obvious link with the committees of the national parliaments dealing with defence and security policy. In this connection, the Assembly has already adopted recommendations with a view to separating its delegations from those of the Parliamentary Assembly of the Council of Europe; your Rapporteur will return to these recommendations later.

86. Consideration should also be given to the ideas developed in the foregoing study on a reform of the present functions of the WEU Assembly tending to give it more substantial powers in budget and supervisory matters. One should be aware, in any thinking on the need and possibility of creating a bicameral system of democratic supervision of the executive at the European level, that the problem concerns both the "community" and the intergovernmental spheres. Even if this question is examined on the assumption of the fourth (intergovernmental) pillar being created, it must not be forgotten that coherence should be maintained with the questions which will perhaps be raised in similar manner in regard to the Community pillars.

87. One must therefore repeat that the various proposals for the creation of a bicameral parliamentary system at European level relate primarily to the Community area. Such is the case for the proposal made by Mr. Balladur<sup>37</sup> for associating national parliaments more closely in the drafting of Community rules by the creation of a second chamber of representatives. Mr. Philippe Séguin, President of the French National Assembly, follows the same direction when he suggests creating a bicameral parliamentary system at European level where national parliaments would, collectively, have the rôle of a lower chamber, and the European Parliament that of a higher chamber<sup>38</sup>.

88. If account is to be taken of the position of politicians responsible for European affairs, such as the European Commissioner, Sir Leon Brittan (in favour of creating a "committee of parliaments"), Mr. Alain Lamassoure, French Minister responsible for European affairs (who is asking that in areas where the Union Council acts as legislator, each member state should be authorised to be represented no longer by a minister but by a member of the national parliament<sup>39</sup> and Mr. Valéry Giscard d'Estaing (who wishes to set up a

36. Article 235 reads as follows: "If action by the Community should prove necessary to attain, in the course of the operation of the common market, one of the objectives of the Community and this treaty has not provided the necessary powers, the Council shall, acting unanimously on a proposal from the Commission and after consulting the European Parliament, take the appropriate measures."

37. *Le Monde*, 30th November 1994.

38. For a French memorandum on Europe, *Le Figaro*, 7th December 1994.

39. *Le Figaro*, 29th November 1994.

committee of national parliamentarians responsible for supervising the policy of the European Central Bank<sup>40</sup>), one is led to insist on the prerogatives of the national parliaments to supervise areas in which institutions take decisions in an intergovernmental framework being preserved at all cost and even strengthened.

89. As revealed in a draft report on progress achieved in implementing the common foreign and security policy, presented by Mr. Matutes on behalf of the Foreign Affairs and Security Committee of the European Parliament on 20th April 1995, it is beginning to be acknowledged within that very institution that to be effective, democratic supervision must be exercised at the same level as the source of power<sup>41</sup>. Again in this report, bicameralism is referred to as one of the solutions which would enable institutional questions to be settled at parliamentary level<sup>42</sup>.

90. As to democratic supervision of the intergovernmental pillars of the Union, Mr. Yves Guéna, Rapporteur of the French Senate on the 1996 reform of the institutions of the European Union<sup>43</sup>, adopts the clearest possible position in advocating:

“ the creation of a European senate representing national parliaments and with a mandate to exercise control ... over the various forms of intergovernmental co-operation among all or some of the member states ...

The members of this Assembly would sit in national delegations, which naturally does not exclude pluralism of views or of voting; in this way, its composition might be adjusted in accordance with the participation of states in the various aspects of the intergovernmental pillars or in related forms of co-operation between member states. Thus the WEU Assembly might become one of the formations of the European senate, the one made up of parliamentary delegates of the WEU member states; similarly, when discussing the Schengen agreements, the European senate would be composed of the parliamentary delegations of the states participating in that agreement. ”

It should be noted that the WEU Assembly is already identified as this body and it is left open to states and national parliaments to decide on possible adaptations to be made to it for it to carry out wider functions.

91. Again, according to the French Senate report:

40. Le Figaro, 11th January 1995.

41. Paragraph 29 of the explanatory memorandum.

42. Paragraph 35 of the explanatory memorandum.

43. See footnote 32 above.

“ It should be emphasised that a European senate thus conceived would not complicate the decision-making process of the Union. Its rôle would be entirely separate from that of the European Parliament. In reality, the Council of the European Union would have as its essential parliamentary interlocutor the European Parliament in the case of the community pillar and the European senate in the case of the two intergovernmental pillars. There would be no “ shuttle ” between these two assemblies exercising different and complementary functions. One could even go so far as to state that the proposed system would be a simplification as compared with the present situation as it would be based on a clear definition of the rôles of each one, while today’s institutional grey area between the second and third pillars is a source of confusion of responsibilities and procedural conflicts. ”

92. These proposals are to all intents and purposes very interesting even if the French Senate has not formulated them with a view to the incorporation of WEU as a fourth pillar of the Union, because it considers it necessary for WEU to remain as an organisation, admittedly closely linked to the European Union, but independent of the latter. The French Senate’s proposals deserve to be examined the more carefully, given that they are directed towards granting a consultative rôle to the WEU Assembly without seeking to go further. Conversely, the report in question puts forward clear ideas on the composition of such a European senate which “ should, for reasons of consistency, be determined in relation to the weighting of voting within the Council. ” ... In this view, “ one might, for example, envisage that the number of members of the parliamentary delegation of a state should be equal to double the number of votes that state has in the Council. ”

93. The method of weighting will certainly not be the only question that will have to be settled, assuming that agreement is reached on the principle of creating a second European chamber composed of delegations from national parliaments, which would sit alongside the European Parliament. The problem will also arise as to whether the delegations to this chamber should be different from those of the Parliamentary Assembly of the Council of Europe.

94. It should be recalled in this connection that the WEU Assembly had suggested a more flexible solution in Recommendation 504 on the revision of the modified Brussels Treaty<sup>44</sup>, by drafting the relevant article as follows:

“ The Council of Western European Union shall make an annual report on its activities

44. Adopted on 6th June 1991 on a report presented by Mr. Goerens on behalf of the Political Committee (Document 1261).

to an assembly of representatives of the Brussels Treaty powers appointed in accordance with the same criteria as representatives to the Parliamentary Assembly of the Council of Europe.”

| States         | Number of votes Council | Number of votes European senate |
|----------------|-------------------------|---------------------------------|
| Belgium        | 5                       | 10                              |
| Denmark        | 3                       | 6                               |
| Germany        | 10                      | 20                              |
| Greece         | 5                       | 10                              |
| Spain          | 8                       | 16                              |
| France         | 10                      | 20                              |
| Ireland        | 3                       | 6                               |
| Italy          | 10                      | 20                              |
| Luxembourg     | 2                       | 4                               |
| Netherlands    | 5                       | 10                              |
| Portugal       | 5                       | 10                              |
| United Kingdom | 10                      | 20                              |
| Austria        | 4                       | 8                               |
| Finland        | 3                       | 6                               |
| Sweden         | 4                       | 8                               |
| Hungary        | 5                       | 10                              |
| Poland         | 8                       | 16                              |
| Slovakia       | 3                       | 6                               |
| Czech Republic | 5                       | 10                              |
| Bulgaria       | 5                       | 10                              |
| Romania        | 7                       | 14                              |
| Slovenia       | 2                       | 4                               |
| Estonia        | 2                       | 4                               |
| Latvia         | 2                       | 4                               |
| Lithuania      | 3                       | 6                               |

95. It will be noted at the outset that the French Senate's concept does not follow the same criteria and certainly other models of bicameral systems can be found based on the experience of the various member states which have such a system. In any event, it is virtually unthinkable that, in a Europe that will soon consist of 25 member countries or more with a total population of more than 450 million inhabitants, parliamentary supervision should be entrusted to the European Parliament alone, without national parliaments being represented at European level and able to exercise supervision over decisions taken in the intergovernmental framework.

96. Some opposition must nevertheless be expected to the introduction of a bicameral system based, on the one hand, on a European Parliament elected by direct universal suffrage and, on the other, on a second chamber composed of representatives of national parliaments. Thus, Mr.

Martin, Rapporteur of the Committee on Institutional Affairs of the European Parliament on the development of the European Union, feels that this initiative would amount to creating a third chamber alongside the (Union) Council which represents national governments and the European Parliament which represents the people. In his view, if it had any power at all, it would only make the decision-making process more cumbersome ... If it were to have no powers at all, this institution would be nothing more than an expensive platform.

97. Your Rapporteur is convinced that none of these arguments is valid. First, the Council of the Union cannot be considered as a second chamber, even if, in the Community framework, it also acts as legislator. For, as legislative functions are gradually transferred to the European parliamentary institutions, the Council will be called upon to legislate with increasingly less frequency. In this connection, Mr. Lamassoure's suggestion must be recalled, which advocated replacing governments by parliamentarians in these areas. The creation of a second chamber composed of representatives of national parliaments would not make the decision-making process more cumbersome because its powers would be different to those of the European Parliament. Even in a purely consultative function, this chamber might exercise essential political influence over the decisions of the executive.

98. On the other hand, Mr. Eyskens, author of a report in the House of Representatives of Belgium<sup>45</sup> on the preparation of the 1996 intergovernmental conference, considers the idea of creating a European senate to be dangerous because its introduction would institutionalise nationalist reflexes, hinder the operation of the European Parliament ... and devalue the rôle of the latter. As the work of the WEU Assembly (composed of national parliamentarians and therefore comparable to a European senate) shows, this Assembly has always been poles apart from nationalist reflexes. Indeed, since it came into existence, it has steadfastly promoted the creation of a European spirit, not merely among its representatives but also in the national parliaments of the member countries. Through the way it operates, the Assembly, where all political tendencies are represented, has always been able to develop constructive joint positions with a view to transmitting useful recommendations to the Council and giving the necessary political impetus to the governments the latter brings together. It thus contributes to developing joint solutions, often enabling stalemates in the Council to be overcome. The introduction of a European senate or chamber of representatives at European level on the model of the WEU Assembly there-

45. See paragraph 26 above.



fore in no way constitutes a danger; it would rather be an institution complementary to the European Parliament, which would be an indispensable strengthening of the principle of representative democracy in Europe.

99. In this context, the debates held on this question at the 12th Conference of European Affairs Committees (CEAC) held in Paris on 27th and 28th February 1995 must certainly be taken into consideration. These debates were very varied and dealt with subjects of interest to national parliaments in the framework of the 1996 institutional reform. The reactions of the participants at this conference to the proposal to establish a new European chamber composed of representatives of national parliaments differed widely. Most national parliaments had not yet had the opportunity to examine this question in depth and the conference did not reach a common position on it. The European Commission, in its report of 10th May 1995 on the operation of the Treaty on European Union, was therefore wrong in stating that CEAC had merely brushed aside this proposal.

100. In short, your Rapporteur is inclined to draw the following conclusions: for the Assembly to argue in favour of WEU being integrated into a (fourth) pillar of the European Union, it must be assured of keeping all its present responsibilities. It must also have a guarantee that any problems raised by incorporating the provisions of the modified Brussels Treaty into the Treaty on the Union, due to differences in composition (variable geometry) of WEU, the European Union and NATO, can be resolved without dilution of security and that the effectiveness of this new pillar will not undergo any possible blurring of responsibilities, in particular due to the involvement of the Commission and the European Parliament.

101. Taking account of all the abovementioned problems which would have to be resolved if one opts for the creation of a fourth pillar of the European Union, it is difficult to foresee whether the 1996 intergovernmental conference will be in a position to find solutions which are acceptable for all the interested parties without diluting the legal bases of security now in force. No doubt sharp disagreement can be expected not only on the content of the fourth pillar "defence" and working methods at executive level, but also the parliamentary dimension, on which it will be difficult to reach agreement, although the idea of a second parliamentary chamber at European level seems to be making headway. Your Rapporteur shares the opinion expressed in the study by the European Strategy Group and the WEU Institute for Security Studies, namely that it is unlikely that the intergovernmental conference will be able to agree on the need to redraft the two treaties and

assess all the effects of the different possible procedures in relation to the decision-making process. Wise counsel might therefore suggest that, in order to avoid a possible failure of the conference in this area, one should opt for a system that enables WEU as a whole to develop as an institution separate from the Union, but in close co-operation with it.

*(c) The development of WEU in an autonomous institutional framework (United Kingdom proposal)*

102. This approach has recently been put forward officially by the United Kingdom Government<sup>46</sup>, but it is also gaining increasing support among other member countries<sup>47</sup> and even in the European Commission. Having recalled that, among Western European countries, the United Kingdom and France both have specific interests and responsibilities overseas, the United Kingdom Prime Minister states that:

"The government believes that the nation state should be the basic building block in constructing the kind of international order we wish to see; and that the nation state remains in particular the fundamental entity for co-operation in the field of defence. The defence of its citizens remains the first and most fundamental duty of any government. We may choose to exercise our responsibilities through coalition action with our partners, but it is a national government's duty to answer to national parliaments when troops are sent into action. So the unshakeable conviction on which our approach to the development of a European defence policy will be based will be that the basis for European action in the defence and security field should be intergovernmental, based on co-operation between nation states.

.....

Future arrangements should in particular reflect the varying memberships of the European Union and WEU. WEU has nine (soon to be ten) full members, those states who are members both of the European Union and of NATO and are thus covered by NATO's defence guarantee, except for Denmark which has opted for observer status. It has three associate members – European members of NATO who are not members of the European Union (Turkey

46. Memorandum setting out the position of the United Kingdom Government on how questions relating to European defence are to be dealt with at the 1996 intergovernmental conference, 1st March 1995.

47. See, for example, the article by Mr. Balladur in *Le Monde*, 30th November 1995.



Norway, Iceland) – who are covered by NATO's defence guarantee in the Washington Treaty but not by that of WEU. It has five observers – Denmark, plus members of the European Union who are not members of NATO (Ireland, Sweden, Finland, Austria). Denmark is covered by NATO's defence guarantee. The others are not covered by any defence guarantee; indeed, their defence and security policies have traditionally been neutral in orientation. Finally, WEU has developed an associate partnership with nine states – Poland, Hungary, the Czech Republic, Slovakia, Bulgaria, Romania, Latvia, Lithuania and Estonia. Congruence between the membership of the European Union and of WEU is thus not complete. In contrast to the position within the European Union, there is a wide spread of rights and responsibilities in WEU.

.....

Future structures should take account of the circumstances in which our armed forces are likely to be operating. Because the missions they undertake will not be concerned in the main with territorial defence, the coalitions of those involved will vary from mission to mission. Individual nations will decide on a case by case basis whether they wish to contribute forces to particular operations, taking account of military factors – for example, the existing spread of operations to which they are committed – and political – for example, regional considerations. Future structures must be able to accommodate this 'variable geometry' in future. Designing arrangements that can do so will strengthen rather than weaken the flexibility with which we will be able to respond to the challenges we face. For all of these reasons, the government has rejected the option of simply folding WEU into the European Union as an intergovernmental pillar."

103. The United Kingdom Government emphasises that: "The essential intergovernmental nature of decision-making on defence would be preserved, with none of the involvement of the European Commission or the European Parliament which is provided for elsewhere in the European Union's structure; WEU already has its own secretariat and its own parliamentary Assembly." It proposes moreover to create a new WEU authority of heads of state and of government including those of full member countries, associate member countries and observer countries. According to the United Kingdom memorandum:

"This new body would provide a reinforced decision-making process for matters

relating to European defence and for mobilising effective European military capabilities. It would thus provide the necessary underpinning to the European Union's common foreign and security policy whilst preserving and indeed reinforcing the transatlantic defence and security link. It would be built on the WEU Treaty base, and the rights and responsibilities of its members would thus mirror those already in force in the WEU Council. It would also preserve the opportunity for others to 'opt in' to WEU operations without changing their status, an issue which is likely to be of particular importance to those members of the European Union who are not members of NATO. ... The new body would have responsibility for taking forward the definition of a European defence policy, as envisaged in the Treaty on European Union. In order to improve links between WEU and the European Union, it could meet back-to-back with heads of state and government meeting in the European Council. The European Council, to which the WEU Secretary-General might be invited when it discusses issues affecting the European Union's common foreign and security policy, could make proposals to the new WEU body, which as the defence component of the European Union would have responsibility for formulating general guidelines on collective European military action."

104. When examining this initiative, one should also first welcome the fact that the United Kingdom Government has taken up proposals which the Assembly had already made on several occasions, particularly in Recommendations 556, 565 and 566. In relation to organising WEU summits, the British proposal goes further than the declaration adopted by the WEU Council at Noordwijk, under the terms of which ministers were merely invited to "consider the possibility of holding a WEU meeting at summit level before the IGC in order to finalise its political input to the conference."

105. The idea of holding WEU summit meetings on a more regular basis seems fully justified in that it would give WEU activities the political impetus which until now has always been lacking. However, if this objective is to be attained, several questions must be raised: first, whether it is not more logical for the heads of state and of government of WEU to meet before the European Council rather than after and, second, whether it should not rather be envisaged that the WEU summit meeting should be the one to transmit proposals to the European Council. Indeed, the more homogeneous framework of WEU would enable agreement to be reached more easily on an initiative in defence policy matters than in a European Coun-

cil which includes five countries which do not participate in co-operation in defence matters in WEU. It is also necessary to ensure that the WEU observer countries cannot block within the framework of the European Council any initiative put forward by WEU.

106. If we insist on continuing in the present direction followed by the Maastricht Treaty, according to which WEU must act primarily at the request of the Union, we cannot hope to develop the political initiative in WEU that we also need. Moreover it would be more difficult to reach agreement in the European Council on proposals to be transmitted to WEU. Hence the report of the Council of the European Union on the functioning of the Treaty on European Union has to admit that the new possibility offered by Article J.4, paragraph 2, has not as such been used. One of the aims of the revision of Title V of the Maastricht Treaty should therefore be to amend the text of paragraph 2 of Article J.4 by giving WEU a general mandate from the Union. The article should therefore read as follows:

“ Western European Union (WEU), which is an integral part of the development of the Union, elaborates and implements decisions and actions of the Union which have defence implications. The Council shall, in agreement with the institutions of WEU, adopt the necessary practical arrangements. ”

107. The United Kingdom proposal envisages inviting the WEU Secretary-General to attend meetings of the European Council when the latter discusses questions dealing the common foreign and security policy. One can but endorse this proposal which is in line with the recommendations which the Assembly has already addressed to the Council in this connection. The government apparently does not envisage the participation of associate partner countries in WEU meetings at the level of heads of state and of government although observer countries will be represented there. One might therefore question the reasons for such differentiation which can be explained only by the desire to avoid making decision-making too difficult through the participation of too many countries. However it would be desirable to define the criteria which would enable associate partners to participate in these meetings under certain conditions.

108. Finally, it should be noted that, in point of fact, the United Kingdom proposal does not really seek to create a new authority since Article VIII, paragraph 2, of the modified Brussels Treaty stipulates that the WEU Council can be “ so organised as to be able to exercise its functions continuously ”. The flexibility of this wording enables the member countries to be represented there at the level and in the way they see fit; in other words, it would already have been possible, in the

past, to organise meetings at the level of heads of state and of government, if the interested parties had demonstrated the will to do so.

109. In summary, it might be concluded that there are several advantages to the British approach in that it permits progress to be made in a pragmatic and flexible way towards increasing cohesion between WEU and the European Union by deepening the experience of practical co-operation between the two institutions and their respective bodies – an experience which is still fairly limited. The two parts of the fortieth annual report of the Council to the Assembly moreover say nothing about the implementation of this co-operation. In the Noordwijk declaration, the WEU Ministers nevertheless stressed that it was important to develop relations with the European Union. The report of the Council of the European Union on the working of the Treaty on European Union states merely that thinking will continue on the relations between the Secretariats-General of the Council of the European Union and WEU.

110. It would be particularly useful to obtain information on WEU's participation in the work of the Security Group of the CFSP and to know to what extent co-operation and responsibility-sharing between this group and the WEU authorities are organised. On the basis of experience gained in specific areas, among which one might quote, for example, co-operation between WEU and the European Union in the administration of Mostar, or the creation of a group of experts of the member states of WEU, WEAG and the European Union with the brief of studying the options for a European armaments policy, one might begin to reflect on improvements to be made to institutional and practical co-operation; avoiding the difficult problems that would result from any form of institutional merger. At the same time, WEU might resume the revision process of its own treaty which was already envisaged at the time of the accession of Spain and Portugal and which will be essential given the radical changes the security environment has undergone since 1989. This revision might constitute another means for WEU to draw closer to the European Union and to develop its co-operative links with its North American allies in the framework of the Atlantic Alliance.

111. The United Kingdom memorandum seems therefore to be a basis for discussion and negotiation between WEU member countries and the other partners of the European Union in the framework of the preparation of the intergovernmental conference. This document was favourably received by several governments at the meeting of the Fifteen in Carcassonne, among others, by the Portuguese Government which currently holds the presidency of the Council.

*IV. The implications of the 1996  
intergovernmental conference  
on Euro-Atlantic relations*

112. The preliminary conclusions on the definition of a common European defence policy which the WEU Council transmitted to the Assembly on 18th November 1994<sup>48</sup> contain the following sentence: "Whatever the outcome of the IGC will be, the intrinsic link between a common European defence policy and NATO will remain." However, at the present time, none of the information concerning the evolution of relations between WEU and NATO issued by the WEU Council would appear to confirm such optimism. Apparently, the implementation of the decisions reached at the NATO summit meeting concerning the conditions for making the collective assets of NATO available for WEU operations is marking time and the application of the agreements on arrangements for the deployment of combined joint task forces by WEU is still awaited. The second part of the fortieth annual report of the Council to the Assembly<sup>49</sup> admits that "the strengthening of WEU's operational rôle depends ... on NATO's elaboration of the combined joint task forces (CJTF) concept. The results will be a test case both for WEU/NATO relations and for the operational potential of WEU". Bearing in mind the persistent difficulties Europeans are having in reaching agreement with the Americans, one might wonder why the WEU Council, in its Lisbon declaration, welcomed with such optimism "the continuing co-operation and the institutional dialogue between WEU and NATO to develop further the CJTF concept".

113. The WEU ministers meeting in Noordwijk agreed it was necessary, in a spirit of transparency and complementarity, to intensify working relationships between the two organisations. It is even more important however for WEU to lose no time in communicating to the authorities of the European Union, in accordance with the WEU declaration appended to the Maastricht Treaty, its conclusions regarding experience gained in its relations with the Atlantic Alliance. It is most important to present to the intergovernmental conference a WEU concept explaining how the European Union, once it has a defence dimension, can become the European pillar of the Atlantic Alliance (a rôle reserved so far for WEU), if its members do not all belong to the alliance and if the European allies are not all members of the European Union<sup>50</sup>. In an article published in the International Herald

Tribune on 30th March 1995, Mr. Kinkel, German Minister for Foreign Affairs, set out the problem as follows:

"The transatlantic partners in NATO will have to adapt to the European identity that is emerging in security and defence policy within the framework of Western European Union.

In the context of the European Union intergovernmental conference next year, the European pillar of the Atlantic Alliance will be strengthened. *A key issue on the transatlantic agenda will be the future merging of NATO security and defence structures with those of European integration.* NATO must not be weakened, yet Europe must be given a wider scope for action on security matters."

114. It remains to be seen how this aim is to be achieved. This contribution is decisive in the preparation of the intergovernmental conference and one cannot wait until 1996 to undertake this examination as it would then be far too late. WEU has particular responsibility in this connection since it is the only European organisation with a contractual link with NATO, based on Article IV of the modified Brussels Treaty.

115. Conversely, despite the transatlantic declaration of November 1990 and the organisation of summit meetings between the European Union, the United States and Canada, the transatlantic relations of the European Union are characterised more by a spirit of competition than by co-operation. Latterly, all sorts of proposals and ideas have emerged from the European Union authorities, and also on the other side of the Atlantic, advocating the establishment of transatlantic relations on new and wider bases, encompassing not only security matters, but also economic, scientific, cultural and other questions, over which Europe and North America are tending increasingly to find themselves in conflict.

116. Discussions on the possibility of developing a new Euro-Atlantic treaty, which are not always very coherent, should not call into question the bases of solidarity or the experience of co-operation in security and defence matters which have proved their worth in the framework of the Atlantic Alliance for forty-five years. The contribution WEU will make, thanks to the experience acquired in its relations with NATO, will therefore be crucial when it comes to determining the way in which questions linked to future relations with our North American allies should be discussed and settled during the 1996 conference. For the time being, it is difficult to determine the course the Council will follow in this matter. Its preliminary conclusions on the definition of a common European defence policy reveal only one

48. Document 1443.

49. Document 1453, 30th March 1995.

50. See Chapter VII of the study of the European Strategy Group and the WEU Institute for Security Studies "Towards a common defence policy".

or two indications of its intentions, such as, for example:

“WEU should examine developments in the transatlantic partnership which represent an important common interest with the aim of introducing joint positions agreed in WEU into the process of consultation in the alliance.

Another aspect that could merit consideration, while taking into account the particular situation of some member states, is the relationship between the development of the FAWEU planning process and the NATO force planning process. Equally, it is necessary to consider possible relations in times of crisis between, on the one hand, forces and headquarters answerable to WEU and, on the other hand, NATO.”

This question is raised in even more concrete terms since the decision by France, Italy and Spain to organise a land force (EUROFOR) and a maritime force (EUROMARFOR) open to all WEU member countries, the Council having stated moreover in its Lisbon declaration of 15th May 1995 that these forces would be “declared forces answerable to WEU” (FAWEU) and would be employed as a priority in this framework but might likewise be employed in the framework of NATO.

117. The preliminary conclusions on the definition of a common European defence policy also stress that:

“In taking up these questions, further thought may also be needed on the procedural aspects such as the introduction of WEU views into the alliance, joint meetings of the respective Councils, and other working relationships such as enhanced co-operation between civilian and military institutions (secretariats, HQs, staffs). These questions have become even more topical in the light of the new tasks of NATO in the field of crisis-management, including peace-keeping.”

118. However, it is not only a matter of procedural questions. One essential issue which must be examined is that of consistency between the security guarantee offered by Article 5 of the Washington Treaty, involving the nuclear umbrella and the full power of the United States, and that offered by Article V of the modified Brussels Treaty, which is legally more binding than that of the Washington Treaty. Not only is this question of decisive importance in the context of the sharing of responsibilities and costs between the two organisations (the United Kingdom, for example, considers that NATO should concentrate on the defence of Europe and WEU on the “Petersberg” missions, while others feel that WEU’s responsi-

bilities cannot be reduced solely to the tasks deriving from Article V), it also plays a vital rôle when it comes to tackling the problems of the enlargement of WEU, NATO and the European Union.

119. The question of sharing responsibilities between Europeans and Americans in the conduct of international affairs was again aired when, during their meeting in Carcassonne, the ministers of the Fifteen suggested that the Atlantic Alliance offer Russia a special co-operation agreement in security matters, the content of which has not been clearly defined – reference has been made to a charter or a treaty which includes a reciprocal non-aggression undertaking. This initiative is situated primarily in the context of the enlargement of NATO to the East and closely linked to that of the European Union and WEU. In an initial reaction to this initiative the Secretary-General of NATO made clear that he could not imagine a member of the European Union becoming a full member of WEU without being a member of NATO<sup>51</sup>.

#### *V. The problems of enlargement*

120. At a colloquy held in Prague on 20th and 21st February 1995 at the invitation of the Parliament of the Czech Republic, the definition of WEU’s future policy towards associate partner countries with a view to preparing the 1996 inter-governmental conference was the central subject of interest to participants. On this occasion, the permanent representative of Portugal to the Council of WEU – Portugal currently holds the presidency of the Council – set out the problems that will be raised in this context as follows:

“... As to the future development of relations between WEU and associate partners, I can only speak for my own country. For the time being, the Permanent Council does not envisage any strengthening of the present status. This does not mean the position of the associate partners will not change in the future. However, as you know, there are two aspects to the process of European integration – widening and deepening – and as 1996 approaches, the time has come to give priority to this matter. The final stage of their convergence with WEU is, naturally, accession to the modified Brussels Treaty, once they have completed the process of joining NATO and the European Union. They might also become observers if they do not wish to have full member status. This is the choice the Maastricht declaration offers European Union members.

51. *Le Soir*, 5th April 1995.

However, it is also possible that, before acquiring full member status, associate partners might become associate members of WEU. This possibility will depend on the timing on the expansion of NATO to include the countries of Central Europe. Indeed, WEU's Maastricht declaration also provides that the European members of the Atlantic Alliance may become associate members of WEU if they so wish.

.....

Enlargement should contribute to stability and peace in Europe and should not, under any circumstances, create new, artificial borders on our continent. This means that enlargement must be accompanied by mechanisms for increased co-operation with the CIS countries, particularly with Russia and Ukraine.

Enlargement should not weaken the stabilising rôle of the European and Euro-Atlantic institutions in international politics in general and European affairs in particular.

.....

Finally, the enlargement of NATO and WEU, for which the rationale is, in each case, different, must maintain the consistency of the defence guarantee provided under Article 5 of the Washington Treaty and Article V of the modified Brussels Treaty. The best solution would be no doubt concomitant of the two alliances. But if this solution is not possible, the two organisations should agree, prior to their respective enlargement, on mechanisms to safeguard the effectiveness of the two defensive alliances and coherence between the Atlantic Alliance and its European pillar, WEU. I have no answers or certainties in this connection, but I believe we are all in agreement on the need to avoid, at all cost, the present interlocking institutions becoming interlocking institutions."

121. It is obvious that the associate partner countries are seeking, first and foremost, a security guarantee – and this is the heart of the problem. At the colloquy, the Director of the WEU Institute for Security Studies, Mr. John Roper, made the following observation regarding the present situation of associate partners:

"It is of course still to be seen what is the nature of the assurance of a non-contractual nature which can be provided to countries prior to them becoming full members of the alliance and/or WEU. This may be a political rather than contractual guarantee but to some extent, the assurance that an attack on the integrity of a country will seriously

affect the future of political relations between any aggressor and the group of allies formerly linked within WEU or the Atlantic Alliance may have a significant deterrent effect. While of course it is not as strong as the military guarantee provided by membership of an integrated defence organisation it has significant value."

122. For as long as the Atlantic Alliance, governed by a policy of giving "priority to Russia", desisted from any concrete initiative leading to NATO membership for the Central European countries, the problem of enlargement essentially boiled down to establishing parallelism between WEU's expansion and that of the European Union. In this parallel process, WEU had in fact moved ahead of the European Union in its policy towards the East by drawing the Baltic countries into the circle of associate partners, without waiting for the European Union to negotiate Europe agreements with them<sup>52</sup>.

123. Regarding the ways and means of establishing such parallelism between WEU and the European Union, your Rapporteur shares the opinion expressed by Mr. Soell at the colloquy held on 17th October 1994 when he stated:

"Certainly it is essential to establish a close link, particularly with the European Union, the more so that under the terms of the Maastricht Treaty, WEU shall be an integral part of the development of that Union. Let us not forget either that the modified Brussels Treaty itself invites the contracting parties to encourage the progressive integration of Europe. An important question therefore now arises about the criteria according to which this parallel progression is to be achieved. On this point, I take the view that the pursuit of more extensive relations between WEU and its associate partners cannot depend exclusively on their degree of integration in the European Union. This would mean in effect that the security concerns of these states and our own security interests would be subordinated to other considerations which prevail in the framework of the European Union. This can at times go as far as making security matters the pretext for holding back on progress in other areas. This we cannot tolerate ..."

Your Rapporteur therefore believes that establishing parallelism between the enlargement of WEU and that of the European Union should not become a means of preventing WEU members from deciding, if they so wish, to invite one or more Central European countries to accede to the

52. See the report by Mr. Soell on a European security policy, Document 1439, 10th November 1994.

modified Brussels Treaty in accordance with the criteria embodied in the latter.

124. However, it is necessary from now on to harmonise WEU's approach to enlargement with both the European Union and NATO, since the latter – under a new American political impetus – has accelerated the process of enlarging NATO. During the Political Committee's visit to Washington from 6th to 8th March 1995, Pentagon representatives clearly intimated that the United States wished that any country becoming a full member of WEU should also be a member of NATO. Otherwise, a dangerous situation might arise where a country admitted only to WEU might, by a circuitous route, benefit from a NATO guarantee.

125. This attitude of the Pentagon runs counter to the declaration of the WEU member countries annexed to the Maastricht Treaty which links accession to WEU to membership of the European Union, not of NATO<sup>53</sup>. This issue is therefore of interest not only to the Central European countries but also to Austria, Finland and Sweden, which have just joined the European Union. These three countries have chosen to become observers in WEU but doubts remain as to whether the WEU Council had really given them a choice between full membership and observer status. For that reason, Mr. de Puig, the Chairman of the Political Committee, put Written Question 329 to the Council in order to determine the manner in which the latter had invited the three countries to consolidate their relations with WEU.

126. In its answer, transmitted to the Assembly on 24th February 1995, the Council stated that:

“The Chairman-in-Office of the WEU Council of Ministers, recalling the offers made in the WEU declaration of Maastricht of 10th December 1991, invited the Republic of Austria, the Republic of Finland and the Kingdom of Sweden, in the light of their ratification of the Treaty of Accession to the European Union, to state their intentions with respect to their relations with WEU.

The Ministers for Foreign Affairs of Austria, Finland and Sweden replied to the Chairman-in-Office of the WEU Council of Ministers by confirming their desire to become observers.

The first meeting of the WEU Council in 1995 took place on 10th January and was

marked by the attendance of the new members of the European Union – Austria, Finland and Sweden.

Austria and Sweden were formally welcomed as observers. Finland, which has yet to finalise its internal procedures regarding its observer status, attended the Council on an informal basis.”

127. In the meantime, the Finnish Government has informed WEU that the parliamentary procedure has been completed and “the invitation to Finland to become an observer in Western European Union” has been accepted. This sentence might again raise doubts over the content of WEU's invitation, but the Council's answer to the question put by Mr. de Puig refers to the WEU declaration of 10th December 1991, clarifying that the content of that declaration is still valid. Consequently, Austria, Finland and Sweden can still be asked to become party to the Brussels Treaty without being members of NATO or be invited to do so by the WEU Council itself.

128. Matters seem more complicated in relation to the Central European countries and calls for the accession of these countries to WEU and to NATO to be synchronised<sup>54</sup> are being heard with increasing frequency, while opinion in other quarters is against a rapid enlargement of NATO<sup>55</sup>. Moreover, there is no common approach in the United States on the criteria for admitting these countries to NATO. Whereas the Pentagon appears to be advocating a case by case approach, rather than by groups of states, the American Congress is preparing, in its draft bill HR7, entitled “National security revitalisation act” – which has been adopted by the House of Representatives but not yet by the Senate – to identify priority groups of states such as the four Visegrad states, at the same time fixing a series of criteria and conditions for the admission of these countries, which must specifically:

- “(a) meet appropriate standards, including:
  - (i) shared values and interests;
  - (ii) democratic governments;
  - (iii) free market economies;
  - (iv) civilian control of the military, of the police, and of the intelligence and other security services, so that these organisations do not pose a threat to democratic institutions, neigh-

53. A WEU member state has stated its opposition to accession by a country which has not at the same time applied to join the Atlantic Alliance, in order to maintain identity between WEU and the European pillar of the alliance. (See the study by the European Strategy Group and the WEU Institute for Security Studies, Chapter V).

54. See, for example, Mr. Rühle in *Frankfurter Allgemeine Zeitung*, 31st January 1995, Mr. Rifkind in *Süddeutsche Zeitung*, 6th February 1995 and the analysis of the group of experts of the European Commission, 19th December 1994.

55. See Klaus Kinkel in *Die Welt*, 6th February 1995.

bouring countries, or the security of NATO or the United States;

- (v) adherence to the rule of law and to the values, principles and political commitments set forth in the Helsinki Final Act and other declarations by the members of the Organisation for Security and Co-operation in Europe;
  - (vi) commitment to further the principles of NATO and to contribute to the security of the North Atlantic area;
  - (vii) commitment and ability to accept the obligations, responsibilities and costs of NATO membership; and
  - (viii) commitment and ability to implement infrastructure development activities that will facilitate participation in and support for NATO military activities; and
- (b) remain committed to protecting the rights of all their citizens and respecting the territorial integrity of their neighbours.”

129. It should be noted in this connection that the stage of development that the countries concerned have reached in their relations with the European Union and with WEU does not feature among the criteria listed in this bill, nor does their membership of the Council of Europe, which must be considered as the principal guardian of the principles of democracy and human rights in Europe. At the American Department of State, on the contrary, an integral concept seems to be advocated, envisaging synchronised incorporation of the Central European countries into the overall range of international security organisations in the widest sense, with a view to creating a kind of network of relations. Moreover, in a recent<sup>56</sup> contribution, Mr. Richard Holbrooke, Secretary of State for European Affairs at the American State Department, listed the following criteria:

- “ – NATO expansion must strengthen security in the entire region, including nations that are not members.
- The rationale and process for NATO’s expansion will be transparent, not secret.
- There is no timetable or list of nations that will be invited to join NATO.

These will emerge as the process moves forward.

- Each nation will be considered individually, not as part of some grouping:
- No outside nation will exercise a veto.
- As was the case in the original Washington Treaty, new members must be democratic, have market economies, be committed to responsible security policies and be able to contribute to the alliance. As President Clinton has stated, ‘countries with repressive political systems, countries with designs on their neighbours, countries with militaries unchecked by civilian control or with closed economic systems need not apply.’
- Each new NATO member constitutes for the United States the most solemn of commitments: a bilateral defence treaty that extends the United States security umbrella to a new nation. This requires ratification by two-thirds of the United States Senate, a point that is often overlooked.”

Conversely, Mr. William Perry, United States Defence Secretary, recently stated<sup>57</sup> that he was against setting out explicit criteria for joining NATO:

“Establishing rigid and detailed criteria could lead to misunderstandings and recriminations between NATO and disappointed candidates when NATO does admit new members. It could place the alliance in the difficult position of rendering explicit, public judgments on the fitness of other nations in such sensitive areas as their commitment to democracy and to a free market.”

In Europe too, a diversity of concepts can be noted, among which are to be found, for example, that of dividing the Central European countries into three circles, the first encompassing Poland and the Baltic countries, the second the Visegrad countries and the third the Balkan states<sup>58</sup>.

130. Moreover, account must be taken of the fact that any enlargement of NATO to the East will require an equitable arrangement with Russia, even though it is constantly repeated that this country will have neither a right of regard nor of veto in this context. The West’s hesitancy, since the creation of the partnership for peace, in clearly defining its concepts in this area and its lack of

57. NATO enlargement, USIS, 23rd March 1995.

58. See Thierry de Montbrial in *Le Figaro*, 7th February 1995.

56. *International Herald Tribune*, 15th March 1995.



cohesion over the choice of criteria to be followed would appear to indicate that this process will be extremely lengthy. There will also be, in the line of argument suggesting that this process should be synchronised with that of the European Union and WEU, the danger referred to by the representative of the Chairmanship-in-Office in Prague that the present interlocking institutions might become interlocking institutions.

131. It will be necessary for the WEU Council to consider the implications of this situation. In its declaration annexed to the Maastricht Treaty, WEU fixed precise criteria for defining the conditions under which applicant countries might accede to the modified Brussels Treaty or become associate members. The success of the stability pact will considerably reinforce homogeneity among the Central European countries, once the problems with their neighbours that still exist between a number of them have been settled. It would not be in the security interest of Western Europe to impose unduly demanding conditions and to place obstacles that are difficult to overcome before applicant countries can join WEU. It is therefore necessary, starting from the criteria laid down in the modified Brussels Treaty, to find the right balance between the interests of the present member countries, for which any great increase in the number of participants should not run counter to the aims of the treaty and hinder their implementation, and the legitimate interests of the newly democratic countries in not being excluded from a security system from which to date only Western European countries benefit. For the security of the latter would also be affected if an area of lesser security were to be established east of their borders for any length of time.

132. However, it seems that for some time the WEU Council has definitely been back-peddalling in regard to the future development of its relations with the countries that have become associate partners. The first part of the fortieth annual report of the Council<sup>59</sup> still claims that by the creation of the status of associate partner, "WEU is ... in the forefront of the process of preparing for the accession of these states to the Union and, as a consequence, to WEU". However now that the status of associate partner has been established, there is a clear impression that the enlargement of WEU towards Central Europe has no longer the same urgency for the Council of this organisation as for the European Union and for NATO. The synchronisation of the rapprochement between the countries of Western Europe and western institutions increasingly depends on considerations voiced in NATO; the number of political leaders advocating that no country should join WEU without at the same time joining NATO or already being a

member is increasing. It can therefore be noted that WEU is moving further and further away from the declaration annexed to the Maastricht Treaty according to which "states which are members of the European Union are invited to accede to WEU on conditions to be agreed in accordance with Article XI of the modified Brussels Treaty, or to become observers if they so wish". If membership of NATO by the countries concerned became the essential factor of the "conditions to be agreed", one would therefore be implicitly giving the United States a right of veto over any enlargement of WEU towards Central Europe.

133. This was not the initial intention of the WEU member governments for in that case it would have been more honest to state in the above mentioned declaration that the member states of the European Union *and of the Atlantic Alliance* were invited to join WEU. If any enlargement of WEU must depend on the extent to which NATO is expanded, a matter to which the United States appears to be giving priority, is there not then a contradiction in American policy, which is seeking, on the one hand, to extend NATO's security guarantees to an as yet ill-defined number of Central European countries and tending, on the other hand, towards a progressive withdrawal from European security and defence matters?

134. It is clear that the extension of NATO to the east will raise various difficult problems as long as the new purpose of NATO and its relations with Russia are not clearly defined. In the absence of such definition, extension might indeed cause a further split which everyone is anxious to avoid. However, NATO's problems should not be an obstacle to the rapprochement of the countries of Central Europe with Western Europe since the integration of these countries in the European Union and WEU does not create a split or any kind of threat to Russia. Conversely, it should not be forgotten that, while Article V of the modified Brussels Treaty imposes a very binding obligation on all its signatories to help any one of them that might be the object of an armed attack, WEU is not designed to carry out large scale defensive action by itself, which obliges it to take maximum account of NATO requirements and in particular those of the Americans who do not wish at any price to find themselves engaged in a major conflict by a decision of their allies in which they have not been involved.

135. It is therefore understandable that WEU should hesitate to consider extending the guarantee offered under Article V to countries that are not members of the alliance. It would nevertheless be possible for it to proceed by stages. From declarations made by certain representatives of associate partner countries during meetings of the Political Committee, it appears that their main

59. Document 1433, 9th November 1995.



objective is not to obtain a security guarantee from WEU but above all to be considered as responsible partners, capable of making their contribution to a wider Europe with a view to being full members. It is therefore time for the Council to consider seriously whether it is not possible to envisage granting associate partner countries *the status of associate member* here and now. If it is possible to give this status to European NATO countries that are not members of the European Union, why should it not be possible to give a similar status to countries whose accession to NATO is not yet guaranteed but whose membership of the European Union is already agreed in principle? A step such as this, apart from the substantial encouragement it would give to the countries in question, would also strengthen cohesion between Western European countries and Central Europe in security and defence matters.

#### VI. A strategy for the way forward

136. It will be necessary to determine clearly and coherently WEU's aims in terms of its future rôle in the system of international organisations before the group of experts established by the European Union begins its work. This step is essential not only in the interests of European security but also because public expression of WEU's ideas is a question of its survival. As the smallest organisation with the most modest resources, particularly in operational terms, there is a risk of it being crushed between the European Union and the Atlantic Alliance, both of which have powerful structures and means. Although the *raison d'être* of the European and Atlantic organisations may not be an end in itself, it is the existence of WEU alone that is constantly called into question, because neither public opinion nor even political leaders have a clear idea of its rôle and functions.

137. It should however suffice to repeat that the modified Brussels Treaty has defined its aims and tasks in a clear and precise manner. After having transferred the implementation of certain tasks covered by the treaty to other organisations, it will be necessary for the Council to draw up a list of the provisions of the treaty whose execution must remain within its area of responsibility, at least in the foreseeable future, explaining publicly the reasons why these tasks cannot be carried out by the European Union or by the Atlantic Alliance.

138. In the preliminary conclusions on the formulation of a common European defence policy published in Noordwijk last November, the Council did useful work in defining the main areas of responsibility and interest common to WEU member countries. WEU might perfectly well base its contribution to the 1996 intergovernmental conference on these factors. Given their significance, it is appropriate to include them here:

- “ – WEU governments have a direct responsibility for the security and defence of their own peoples and territories;
- WEU governments have a responsibility to project the security and stability presently enjoyed in the West throughout the whole of Europe;
- WEU governments have an interest, in order to reinforce European security, in fostering stability in the southern Mediterranean countries;
- WEU governments are ready to take on their share of the responsibility for the promotion of security, stability and the values of democracy in the wider world, including through the execution of peace-keeping and other crisis-management measures under the authority of the United Nations Security Council or the CSCE, acting either independently or through WEU or NATO. They are also ready to address new security challenges such as humanitarian emergencies; proliferation; terrorism; international crime and environmental risks, including those related to disarmament and the destruction of nuclear and chemical weapons;
- Europeans have a major responsibility with regard to defence in both the conventional and nuclear field. In addition to their rôle of national deterrent, the British and French nuclear weapons contribute to global deterrence in accordance with ... The Hague platform of WEU of 1987.”

More specifically, as far as the WEU Assembly is concerned, this must remain the primary element for strengthening representative democratic supervision in security and defence matters. As your Rapporteur has explained in the section devoted to this question, it is essential that the Council endorse this concept of parliamentary supervision and support it in its contacts with other European authorities.

139. There are certainly good reasons why the analysis of the risks and threats to Europe undertaken in the context of the first part of the white paper on European security should be conducted in a Council with 27 countries present. However, this analysis should produce practical responses and a coherent concept of the organisation of collective European security and defence; such a concept would give a decisive impetus and direction for both the European Union and the Atlantic Alliance. This being so, should not the decisions to be taken in the second phase of the work on this white paper be reserved for a Council limited to full members, which would however take into

account associate members' points of view? This undertaking should indeed serve as an example and show that it is from a homogenous and determined group such as WEU that political impetus should emanate. The WEU member countries will thus be able to prove that they are the European hard core in security and defence matters and are capable of showing the way to countries belonging to the wider circle of the European Union. To this end, the WEU Assembly is fully prepared to co-operate with the Council in a kind of joint venture.

140. However, to ensure the success of this enterprise, member governments of WEU and all its executive bodies will need to bring about a fundamental change of direction in their political will. The concept of the Maastricht Treaty whereby political impetus must be given by the wider and less homogenous circle (the European Union) to the smaller, more homogenous circle (WEU) is not realistic, as experience has shown before and after this treaty came into effect.

141. While the Union, by its nature and its methods of operation, is incapable of intervening or giving a valid mandate to WEU in defence matters, the Maastricht Treaty limits WEU's possibilities in these matters through Article J.4, paragraph 5, which stipulates that co-operation in the framework of WEU (on the basis of the modified Brussels Treaty) must not run counter to or hinder that provided for in the Maastricht Treaty. This intolerable situation has promoted a very widespread "wait and see" mentality in the ministerial departments responsible for WEU matters which is putting a brake on a substantial number of WEU's political initiatives.

142. This is one of the reasons why certain initiatives with a bearing on what is properly WEU's area of responsibility do not proceed from the latter but from the European Union, as illustrated by the approach undertaken by the 15 at Carcassonne, who, after doubtless hasty consideration, invited NATO to propose a special arrangement to Russia. Relations with NATO are in effect primarily the responsibility of WEU.

143. Therefore let us repeat once again: it is first of all necessary to generate the necessary political will in WEU for that organisation to become the political driving force in those areas for which it has responsibility. It is then necessary to draw the consequences at institutional level by putting an end to the ambiguities of paragraphs 2 and 5 of Article J.4 which restrict WEU's activities in an intolerable and unrealistic way. In this connection, the United Kingdom memorandum might provide an interesting working basis since it recognises the needs of WEU in terms of political impetus.

144. The intergovernmental conference should lead to WEU being recognised as the hard core of

the Union in security and defence matters in which it acts on behalf of the Union for a transitory period, with all members of the Union that are not members of WEU having the possibility of being associated with WEU actions without being able to block consensus reached in this framework.

145. Furthermore, WEU must endeavour to develop a unity which operates as a true political driving force and at the same time guarantees the continuity of its action. In this connection, consideration should specifically be given to the proposal of the high-level group of experts set up by Mr. van den Broek with the aim of creating a central analysis and evaluation capability with the necessary study and information means ... led by a political personality and having sufficient authority, independence and duration. This proposal concerns, of course, the whole range of responsibilities of the CFSP. Now, given that the membership of the CFSP and of WEU is not identical, it will be difficult to work out how to create one and the same analysis unit for both. Consequently, as the WEU Assembly has already recommended several times, the political powers of the WEU Secretary-General should first be considerably strengthened.

146. As to the harmonisation of the presidencies of the European Union and WEU, the matter is not urgent as long as "variable geometry" continues to be a characteristic of all the European institutions. It is much more important for WEU to speed up its efforts to become truly operational, for as long as it is not operational, it will be practically unable to take any specific action towards shouldering its responsibilities and achieving its aims, as summarised at Noordwijk. Moreover, at operational level, WEU is in a position to prove that the principles of consensus and intergovernmental co-operation which govern it can lead perfectly well to considerable progress being made in developing a common policy. Indeed it would be mistaken to believe that the determination of the member states to harmonise their interests and contribute to consensus in defence matters can be strengthened by their fear of finding themselves, under certain circumstances, in the minority or even totally deprived of decision-making powers.

147. Monetary union has been achieved by stages and according to specific criteria which had to be met in order to participate. Following this model, WEU member countries might agree to establish a common defence in successive stages, but such an undertaking should be pursued so as to avoid increasing the number of variable geometry circles that exist in Europe.

148. As to relations between the Council and the Assembly, the Council should affirm more clearly that the WEU Assembly is the only parliamentary assembly to which it is responsible, in accordance

with the treaties in force. In face of the European Parliament's efforts to establish direct contact with the WEU Council and its Secretary-General, it is essential for the Council to take a clear, publicly visible stance, showing that its parliamentary interlocutor is the WEU Assembly. The clarity of its position should also be evident in the manner in which it fulfils the obligation placed on it by Article IX of the modified Brussels Treaty to keep the Assembly informed of its activities. The Assembly assesses all the detailed information it regularly receives in the annual reports of the Council on the activities of its different working groups. However, it must be recalled that the dialogue between the Assembly and the Council is of a political nature and that it is therefore essential for the annual report to give more information on political guidelines in order to stimulate a fruitful exchange.

149. Furthermore, the information given by the Council is not always consistent and complete. Hence one must wonder why the Western European Armaments Group (WEAG), whose activities are reported by the Council in its fortieth annual report, does not appear on the organogram of the ministerial organs transmitted to the Assembly by the Secretary-General in November 1994. Conversely, the same organogram shows a verification group whose existence is not mentioned in this annual report. Nor does it mention the creation, the aims or the activities of a group of military delegates set up by the Council.

150. Conversely, the Assembly noted with interest the transfer to WEU of certain Eurogroup functions, particularly public relations activities and the existence of a Council working group on transatlantic public relations currently chaired by the United Kingdom. The Assembly itself attaches particular importance to making information concerning WEU more widely available on the other side of the Atlantic and wishes to be associated with this. It therefore deeply regrets that the Council should have decided to organise an important conference in Washington in June in the framework of its transatlantic public relations activities, with a major participation of WEU ministers, while the Assembly's plenary session is to be held on exactly those same dates. Moreover, no invitation to this event has been issued to any member of the Assembly. This is hardly the way for the Council to demonstrate its willingness to respect the Assembly's work and improve relations with it.

151. What is more, from time to time it is noticeable that the ministerial organs are not keeping the Assembly informed of some of their activities or of those of their subsidiary bodies. Hence the Assembly has never been informed of the content of a speech by the WEU Secretary-General at the last CSCE (now OSCE) summit meeting in Buda-

pest, whereas this speech has been published by the services of the European Parliament.

152. Most surprising of all, the Council at no time informed the Assembly that the Government of Greece, when it transmitted the instrument of ratification of the protocol of accession of the Hellenic Republic to the modified Brussels Treaty, made a declaration to the effect that the Hellenic Government excluded from the competence of the International Court of Justice any dispute over the Hellenic Republic taking defensive military measures for reasons of national defence. For this reason, on 26th April 1995, Mr. Cuco put Written Question 330 to the Council as follows:

“ Does the Council consider that it is lawful, when ratifying an international agreement, for a reservation to be made which should normally have been included in the protocol of accession itself, since such reservation, unilaterally modifying Article X of the modified Brussels Treaty, cannot acquire validity without the signature and ratification of all the other contracting parties? ”

153. At the present juncture, it is of prime importance for WEU as a whole to assert itself in the face of the new risks threatening European security and the problems raised by harmonising positions and interests of European countries and institutions with a view to the 1996 intergovernmental conference and it is essential for the Council and the Assembly to follow the same course. The risk of disagreement between the Assembly and the Council will be the less if the Council provides the Assembly with more information on its activities and its political guidelines and also on the problems it is encountering in achieving its aims.

## *VII. Conclusions*

154. While the various institutions of the European Union and also member governments, parliaments, political groups and research institutes are in the process of drafting their studies and contributions to the preparation of the work of the group of experts on the revision of the Maastricht Treaty, it is perhaps too soon to draw final conclusions.

155. Faced with the prevailing uncertainty on the periphery of Europe, in particular regarding the evolution of the internal situation in Russia and also the development of crisis flashpoints on the territory of the Commonwealth of Independent States, the disturbing inability of the international community to bring under control the bloody conflict raging in the Balkans only hours away from the main European capitals, and the fearful violence of religious extremism which is occur-

ring with increasing frequency on Europe's southern perimeter, there is a growing conviction that it is of the utmost importance to maintain and consolidate the smooth running of the European and transatlantic institutions, regarded as anchors of stability and security.

156. In the search for a new security order in Europe, all organisations concerned, and foremost among them the European Union, WEU and the Atlantic Alliance, must adapt in order to meet the challenges arising from the radical upheavals in the international situation since 1989, and in particular the heavy pressure exerted upon them by the applicant countries that are knocking at their door. Under such circumstances, one has to wonder what the aim of the 1996 intergovernmental conference will be. It seems more important to move towards consolidating and improving the present mechanisms for guaranteeing the security of our citizens than to seek at all costs to overcome differences in ideological vision as to the purpose of a United Europe, or to bridge the gap between those in favour of a community Europe with a federal structure and advocates of the primacy of the nation state in deciding major political questions.

157. More specifically, as far as security and defence questions are concerned, any attempt radically to change the method of operation of the defence system and put it on an entirely new contractual basis is likely to lead to the failure of the conference. WEU still needs time to become

truly operational and develop its capabilities. It should therefore be able to operate autonomously. In parallel, it must develop more practical procedures for improving co-operation with a CFSP that will perhaps develop more rapidly in a community direction, without abandoning the principle that it must continue to be directed by an intergovernmental decision-making body and not by the European Commission.

158. Regarding democratic supervision of the European executive, a clearer distinction should be made between questions within the community purview and those that are an intergovernmental responsibility. A cut and dried solution, according to which all community matters would be the responsibility of the European Parliament, and all intergovernmental matters would be entrusted to a second chamber composed of representatives of national parliaments would probably be inapplicable. On the one hand, the national parliaments are already demanding increased participation in matters falling within the community process and are asking, for example, to ensure supervision of the principle of subsidiarity, while, on the other hand, the European Parliament is seeking to exercise a greater influence on questions relating to the CFSP as the latter develops in a community direction. In any event, however, during the 1996 conference, it will be essential to seek recognition of the need for a second chamber in order to complete the European parliamentary dimension.

## APPENDIX

*Treaty of economic, social and cultural collaboration  
and collective self-defence,**signed at Brussels on 17th March 1948,  
as amended by the Protocol modifying and  
completing the Brussels Treaty**signed at Paris on 23rd October 1954**Article XII*

The present Treaty shall be ratified and the instruments of ratification shall be deposited as soon as possible with the Belgian Government.

It shall enter into force on the date of the deposit of the last instrument of ratification and shall thereafter remain in force for fifty years.

After the expiry of the period of fifty years, each of the high contracting parties shall have the right to cease to be a party thereto provided that he shall have previously given one year's notice of denunciation to the Belgian Government.

.....

*The North Atlantic Treaty**Washington, D.C., 4th April 1949**Article 13*

After the Treaty has been in force for twenty years, any party may cease to be a party one year after its notice of denunciation has been given to the Government of the United States of America, which will inform the governments of the other parties of the deposit of each notice of denunciation.

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**IMPRIMERIE □ ALENÇONNAISE**  
Rue Édouard-Belin 2<sup>e</sup> trimestre 1995  
N° d'ordre 35687

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PRINTED IN FRANCE



