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Security in a wider Europe –  
reply to the annual report of the Council

**REPORT**

submitted on behalf of the Political Committee  
by Mr Antretter, Rapporteur

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*Security in a wider Europe –  
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<sup>1</sup> Adopted in Committee by 16 votes to 1 with 1 abstention.

<sup>2</sup> *Members of the Committee:* Mr Baumel (Chairman); MM Urbain, Blaauw (Vice-Chairmen), MM Antretter, de Assis, Bianchi, Brancati (Alternate: Mrs Pozza Tasca), Mr Bühler, Sir Sydney Chapman (Alternate: Hancock), Mr Cusimano (Alternate: Gnaga), Mr Dias, Mrs Dumont, MM Ehrmann, Evangelisti, Eyskens, Mrs Fischer, Mr Forni, Lord Grenfell (Alternate: Vis), Mr Irmer, Lord Kirkhill, MM Liapis, van der Linden, Van der Maelen, Marshall, Martínez, Martínez Casañ (Alternate: Arnau Navarro), MM Puche Rodríguez, Recoder, Rippinger, Roseta, Skoularikis, Vrettos, Woltjer, Wray, Yamgnane, Zierer, N. (Alternate: Mrs Squarcialupi).  
N.B. *The names of those taking part in the vote are printed in italics.*

*Draft Recommendation*

*on security in a wider Europe – reply to the annual report of the Council*

The Assembly,

- (i) Welcoming the fact that in its Erfurt Declaration the Council of WEU expressed the resolve to take up the challenges arising out of the implementation of the Treaty of Amsterdam and the decisions taken by NATO in Berlin and Madrid;
- (ii) Strongly regretting, however, that the Council of WEU did not submit the second part of its 43rd annual report to the Assembly in time, yet again failing to comply with its obligations under Article IX of the modified Brussels Treaty;
- (iii) Deeply concerned about the continuing tense situation in Kosovo and the major difficulties encountered in trying to reach a solution satisfactory to all the parties involved before these problems pose a genuine threat to the security and stability of the neighbouring states of FYROM and Albania, as well as to the Balkan region as a whole,
- (iv) Stressing therefore the importance of reaching agreement rapidly within the WEU Council on drawing up a procedure facilitating consensus-building and the emergence of a decision to act in response to a specific crisis, within the framework of the relevant provisions of the modified Brussels Treaty, as agreed in Erfurt;
- (v) Considering that Europe is more likely to react swiftly to crisis situations if decisions taken by the European Union to avail itself in such cases of WEU are based from the outset on relevant preliminary work and proposals by WEU;
- (vi) Noting that at least one WEU member state – Germany – is of the opinion that the amendment to the Treaty on European Union adopted in Amsterdam entails a consequent amendment to the modified Brussels Treaty, which was approved by its national parliament when it ratified Article 17 of the Treaty on European Union, whereas the Council of WEU, in its reply to Recommendation 618, explicitly stated that the development of relations with the European Union did not call for a revision of the modified Brussels Treaty,
- (vii) Drawing attention therefore to the danger of national parliaments adopting diverging interpretations of the legal consequences of the ratification of Article 17 of the Treaty on European Union,
- (viii) Hoping that the intention announced by the European Union in the Amsterdam Treaty of developing closer institutional relations with WEU will lead to enhanced participation of all WEU nations and organs in the activities of the CFSP,
- (ix) Stressing the need to define more clearly than has hitherto been the case the nature, framework and objectives of a European security and defence identity and the countries that are to participate in it,
- (x) Concerned that the Council's approach, which consists in founding the arrangements for enhanced participation by the associate members, observers and associate partners on individual decisions, about which the Assembly in some cases is not informed, will lead to considerable legal uncertainty, with the risk that the rights of the parliamentary delegations of these states in the Assembly will no longer be in line with those enjoyed by their representatives in the Council;
- (xi) Stressing, therefore, that all efforts designed to secure the enhanced participation of these countries in the activities of WEU can only be supported by the Assembly if such participation is founded on clear international legal agreements which are subject to parliamentary scrutiny;

(xii) Considering that the enlargement principles set down by WEU member states in their Declaration of December 1991 have been overtaken by events and are urgently in need of revision if WEU is to make a constructive contribution to building a wider security and defence Europe,

#### RECOMMENDS THAT THE COUNCIL

1. Inform the Assembly of the legal consequences that the entry into force of the provisions of the Amsterdam Treaty has for the modified Brussels Treaty, so that this may be taken into account during the ratification procedure in the member states;
2. Take the necessary steps without delay to ensure that those provisions of the modified Brussels Treaty that may be affected by the amendments to the Treaty on European Union are revised accordingly;
3. Rapidly check whether any provisions of the modified Brussels Treaty need to be amended as a result of the creation of military structures within WEU;
4. Inform the Assembly of any progress made towards improving the procedure for taking decisions in crisis situations;
5. Clarify whether any differences exist, and if so identify them, between the project of a European security and defence identity (ESDI) on the one hand and the CFSP, or the common defence policy as jointly defined by WEU and the EU, on the other;
6. Make WEU's enlargement policy sufficiently flexible so that:
  - (a) all states with which the European Union has started accession negotiations and which have signed accession protocols with the Atlantic Alliance are invited to accede to the modified Brussels Treaty in conditions to be agreed in accordance with the provisions of Article XI of the said Treaty;
  - (b) the minimum prerequisite for the accession of European NATO member states to the modified Brussels Treaty is acceptance of their participation in the CFSP;
7. Accordingly take steps vis-à-vis the EU, within the framework of the arrangements on enhanced cooperation between the EU and WEU to be agreed on the basis of the Amsterdam Treaty, to secure the participation of those WEU associate members and associate partners who so desire in the activities of the CFSP in so far as these concern WEU;
8. Invite those associate members of WEU who so desire to accede to the modified Brussels Treaty, provided that the conditions set out in paragraphs 6(b) and 7 are fulfilled;
9. Ensure that cooperation with all WEU nations which are unable or unwilling to accede to the modified Brussels Treaty in the foreseeable future is founded on a legally clear international agreement of association, to be subject to parliamentary scrutiny, that will render the current distinctions between associate members, observers and associate partners superfluous;
10. Convey to the Assembly the document approved in Erfurt on the practical arrangements for the participation of associate partner states in Petersberg operations.
11. Ensure that in the future the annual report of the Council is always submitted on time to the Assembly and that it contains information about the activities of the European Union in the field of the CFSP.

## *Explanatory Memorandum*

*(submitted by Mr Antretter, Rapporteur)*

### *I. Introduction*

1. 1997 was the year of important decisions for the future of Europe's security. The Amsterdam Treaty provided the European Union with additional possibilities and instruments for drawing closer to its objective of framing a genuine common foreign and security policy (CFSP). The Treaty made clear that the project of a common defence within the European Union, and therefore of the possible integration of WEU in the EU, cannot be achieved for the moment. The prospect of these goals being attained in the future depends on a political decision of the European Council that is unlikely to be taken in the foreseeable future because of the continuing differences of opinion on the subject.
2. This means that WEU will continue to be the sole European defence organisation and the only European organisation capable of planning and conducting military operations for crisis-management purposes. The Amsterdam Treaty expressly recognised WEU's important role in this respect and gave the European Union competence to avail itself of WEU to that end where necessary and to set its general political guidelines in such cases. The objective of building up WEU in stages as the EU's defence component is to be pursued through a series of concrete measures designed to strengthen institutional relations and practical cooperation between WEU and the European Union.
3. The EU summit meeting held on 12-13 December 1997 paved the way for the first round of negotiations on EU enlargement to take in countries to the east and south. The European Union's partnership agreement with Russia also entered into force in December. The NATO countries reached agreement that the European security and defence identity should be built within the Atlantic Alliance and recognised that WEU is an essential part of the ESDI.
4. At the NATO summit meeting in Madrid the ministers decided to invite three central European states – the Czech Republic, Hungary and Poland – to accede to the Washington Treaty in the first wave of enlargement while making it quite clear that membership of the Alliance remained open to other countries at a later date. A Founding Act was signed on relations between NATO and Russia. At the same time, NATO and Ukraine agreed on a mutual cooperation and partnership charter. The North Atlantic Cooperation Council was superseded by the Euro-Atlantic Partnership Council and the Partnership for Peace programme was enhanced and extended. Finally, in a bilateral context, the United States and the Baltic countries concluded a Charter of Partnership on 16 January 1998.
5. The WEU countries have drawn the necessary conclusions from the decisions taken by the European Union in Amsterdam and by NATO in Berlin, Sintra and Madrid. In the WEU Declaration of 22 July 1997 attached to the Final Act of the intergovernmental conference and in the Erfurt Declaration of 18 November 1997, the WEU Council of Ministers attempted to define a new role for WEU. It has also drawn up a comprehensive programme of work covering closer cooperation in the future between WEU and both the European Union and NATO, WEU's operational development, armaments cooperation, relations with third countries such as Russia, Ukraine and the Mediterranean states, and other security-related issues. Among other things, the WEU Council has taken a series of decisions on how to improve the involvement of the associate member, observer and associate partner countries in the Organisation's activities.
6. In view of all these developments, WEU is now supposed to be an organisation with a clearly defined role. The Amsterdam and Madrid decisions put an end to the debate that had been going on for years about its future as an institution<sup>1</sup>.
7. However it would appear to be just as difficult as in the past to persuade the public at large of the relevance of WEU's role and its

<sup>1</sup> WEU Secretary-General Cutleiro addressing the 50th session of the Institute for Advanced National Defence Studies, Brussels, on 21 January 1998.

contribution to maintaining peace and stability in a wider Europe. Fifty years on from the signature of the Brussels Treaty, whose modified version created WEU 43 years ago, there are still differences of opinion and a lack of information about the Organisation's value and purpose. The day after the Erfurt Declaration was adopted, an article appeared in a German newspaper<sup>2</sup> containing the following comment:

"The British, French and Germans do not have the same view of what WEU should become and disagree as to whether it should be the "military wing" of the European Union, a "bridge" between the EU and NATO or merely a forum in which the European countries of NATO can reach agreement. WEU's extended membership makes it politically unmanageable and the absence of any military infrastructure renders it unsuitable as an instrument for security ..."

8 Your Rapporteur does not endorse this blanket criticism. Rather, he shares the view the German Foreign Minister, Mr Kinkel, expressed in his address to the Assembly of WEU on 1 December 1997 when he said that it was to be hoped that WEU would have very few occasions when it would have to prove its suitability as an instrument for European crisis management. The crucial issue is whether the countries concerned can generate the common political will in a crisis that will enable them to have recourse to WEU for the purpose of managing it. Because of the interlocking nature of the relations that now exist between the European Union, WEU and NATO, the requisite common will must be present in all three organisations if WEU is to be asked to intervene.

9 Irrespective of WEU's successful participation in monitoring the embargo imposed in the Adriatic and on the Danube and its police mission in Mostar, there are a number of other examples that show how difficult it is within WEU to secure agreement on political action. One can mention the beginnings of the conflict in former Yugoslavia, the question of a peacekeeping force in the African Great Lakes region or the crisis in Albania where WEU's contribution is limited to

a remit for the multinational advisory police element (MAPE). It is also pertinent to ask whether WEU actually tried to address the issue of adopting a common European stance on the latest Iraqi crisis, and finally, whether the only action WEU can take on the situation in Kosovo is a short statement by its Secretary-General.

10. Furthermore, greater use of WEU than in the past should also be made in other problem areas concerning wider European security. It has correctly been said that WEU's present family of 28 countries is the precursor of tomorrow's Europe. The first objective of this report is to point to the European security issues that are still outstanding and that more than ever before the European governments need to address by having recourse to the possibilities offered by WEU. In this context reference can be made to work on the European security and defence identity (ESDI) and the unsolved problem of how to ensure that the enlargement strategies of the European Union and NATO are congruent.

11. In preparing this report the Rapporteur held consultations with representatives of the governments, parliaments and political parties of a number of WEU nations, including Greece, Turkey, Poland, Slovakia and Austria, who provided extremely useful input and suggestions for the final version of the document. The Rapporteur has made every effort to take on board the wealth of comments made by members who attended the meeting of the Political Committee in Washington on 24 March 1998, at which the initial working paper was discussed at length.

## *II. The new dimension of the modified Brussels Treaty*

12 In assessing WEU's future contribution to security in a wider Europe, three factors should be taken into consideration: in his address to the WEU Assembly on 1 December 1997, the then Chairman-in-Office of the Council referred to WEU as a "multi-purpose instrument". This is indeed an appropriate term that corresponds to the extensive responsibilities conferred upon WEU by the modified Brussels Treaty. In this context it is gratifying that the WEU ministers agreed in the Erfurt Declaration that although the political circumstances have dramatically changed since the Treaty was signed, it continues to

<sup>2</sup> *Frankfurter Allgemeine Zeitung*, 19 November 1997

form a valuable part of the European security architecture

13. In the light of the new definition of WEU's role vis-à-vis the European Union and NATO, the future application of the modified Brussels Treaty even takes on a new dimension that must be examined more closely. It is also of particular significance that in Erfurt the ministers tasked the Permanent Council to reflect on procedures within WEU facilitating consensus-building and, where appropriate, the emergence of a decision to act in response to a specific crisis, within the framework of the relevant provisions of the modified Brussels Treaty.

14. As far as the Assembly is aware, this is the first time in the history of WEU that the Permanent Council has been given a task of this sort. It shows that there is clearly a readiness to make greater use of the WEU decision-taking mechanism in the future. If that were to prove to be the case, it must be seen as a very positive development superseding the prevailing widely-held view that WEU is a forum in which matters can be discussed but not decided.

15. It is to be hoped that the process of reaching agreement on the arrangements for facilitating consensus-building will not be hampered by frustrating disputes. France is known to have proposed that the principle of constructive abstention introduced into the Amsterdam Treaty also be applied within WEU. The German view is that this is unnecessary because in WEU a country that is actively involved in a decision to conduct a Petersberg mission is not obliged to participate in its implementation.

16. It is particularly urgent to reach swift agreement on facilitating consensus-building in view of the fact that under Article VIII 3, the modified Brussels Treaty is the only treaty to contain a provision making it mandatory for the Council to hold consultations in crisis situations. Neither Article J 6 of the Amsterdam Treaty nor Article 4<sup>3</sup> of the North Atlantic Treaty have anything comparable. However, Article VIII 3 of the modified Brussels Treaty has the drawback of only requiring the Council to be convened in the event of a peace-threatening situation if this is requested by one of the High Con-

tracting Parties. Thus the difficulty is not only to reach a consensus, but also to convene the Council in the first place to consult on a crisis situation. Moreover, our experience thus far is that in practice member states hardly ever avail themselves of the possibility of convening the Council in accordance with Article VIII 3.

17. The fact that the Permanent Council holds regular meetings at ambassadorial level is not a solution, for the decision to convene the Council pursuant to Article VIII 3 is generally a political one that many states are reluctant to take. This can be explained in a number of cases quite simply by the fact that the relevant ministries and policy-makers are not sufficiently well acquainted with the provisions of the modified Brussels Treaty. However, there are many other reasons. It takes not only a special political commitment but also a readiness to engage in consultations to avail oneself of Article VIII 3. If a state does not consider its own interests to be particularly affected, then it has no reason to take the initiative. If, on the contrary, its own vital interests are indeed at stake, then it may not be prepared to engage in consultations and to share the decisions with others.

18. The Permanent Council's mandate should therefore be extended to cover the question of how, more generally speaking, the practical application of Article VIII 3 can be facilitated. One solution would be to extend the right of initiative to the WEU Secretary-General and the Assembly. However, since this is unrealistic, given the reluctance of member governments to consider amending the Treaty, an effort should first be made to improve procedures without amending the Treaty. This will depend on strengthening the specifically political responsibility of the country holding the Presidency at any time, and on enhancing its awareness of that responsibility.

19. We have seen time and again how hard it is for Europe to respond swiftly to actual crisis situations. This is due not only to difficulties in reaching a consensus on the issue itself, but also to diverging views as to whether the crisis should be handled first and foremost by the EU, WEU, NATO, the OSCE, United Nations or an *ad hoc* coalition. In the field of WEU-EU relations there is widespread support for the view that the major difficulties could have been overcome if it had been possible at Amsterdam to integrate WEU in

<sup>3</sup> See appendix for the precise wording of these articles



the EU. It is felt, however, that as long as the responsibility for political and economic crisis management lies with the EU, while that for military crisis management lies with WEU, it will remain difficult to reach a consensus on recourse to military means in case of need<sup>4</sup>

20 Whether the main problem is indeed the lack of a single organisational framework for crisis management is a moot point. Up until now there has been a lot of talk of action by interlocking and complementary institutions. However it is not only the institutions that are important, but also the treaties on which they are founded. Hence more attention should be paid in the future to applying the relevant treaties in such a way as to ensure that they are indeed complementary to each other. The Treaty on European Union, for instance, allocates certain functions and tasks to WEU as an organisation, without establishing any link at all with the modified Brussels Treaty. Yet if WEU is indeed a "multi-purpose instrument", then this is precisely because the modified Brussels Treaty is a "multi-purpose treaty", which strives both for European integration and transatlantic cooperation within NATO. Since neither the European Union nor NATO have anything equivalent to Article VIII.3 to refer to, WEU member states should, in the earliest possible stages of an emerging crisis, convene the Council of WEU for consultations pursuant to Article VIII.3, in order to provide both the European Union and NATO with their assessment of the situation, their conclusions and, where appropriate, their proposals for decisions.

21 Any decision of the European Union to avail itself of WEU in pursuance of Article J.7 of the Amsterdam Treaty should, as far as possible, be based on appropriate preparations by WEU itself. This is in keeping with the provision that WEU should not only implement, but also *elaborate* decisions and actions of the European Union which have defence implications. This is why it is also important to ensure from the outset that WEU should, in the framework of the CFSP, make substantial contributions to the work of the Policy Planning and Early Warning Unit that was created in Amsterdam. However, the activities of this unit cannot replace political consultations in

the framework of Article VIII.3 of the modified Brussels Treaty.

22 When defining the *modus operandi* for linking the decision-taking processes of both organisations in crisis-management operations for which the EU avails itself of WEU, it should be established even more clearly that the Council of WEU may itself take the initiative of submitting its analysis of the situation to the European Union in order to prepare and facilitate decision-taking within the European Union during an emerging crisis.

23 The new nature of WEU-NATO cooperation adds yet another dimension to the application of the modified Brussels Treaty. Notwithstanding NATO's successful peace mission to former Yugoslavia, there is no guarantee that NATO will always be available as a tool for crisis management, especially since this is not provided for by the Washington Treaty. In the event of a crisis situation which has to be managed without the active participation of the North American ally, Europe should have the means of autonomous crisis management, having recourse where necessary to NATO's military capability for operations conducted under WEU's political control and strategic direction.

24 Finally, WEU could take an autonomous decision on the planning and implementation of a Petersberg mission, possibly without having recourse to NATO assets and capabilities, but calling on the forces answerable to WEU (FAWEU) and their headquarters. Moreover the flexibility of the modified Brussels Treaty is sufficient to allow all other types of operation, such as those planned and implemented by one or several framework nations, which the WEU Council would support without necessarily taking on the politico-military direction and control of the operation. Thus there are a multitude of reasons for steadfastly supporting the intention announced by the WEU ministers in their Erfurt Declaration of improving consensus-building and decision-taking processes in the framework of the modified Brussels Treaty.

### *III. The role of WEU as a precursor of an enlarged European security and defence union*

25 In Erfurt all 28 nations reaffirmed their commitment to creating a common European security area free of dividing lines, in which all

<sup>4</sup> The view expressed by the German Foreign Affairs Minister, Mr Kinkel, in his address to the WEU Assembly on 1 December 1997.

states are partners in security. From the German version of the Erfurt Declaration it would seem that 22 of its 59 paragraphs were adopted at 28, 27 at 18, 8 at 13 and that only 2 were adopted at 10, in other words, by the signatories of the modified Brussels Treaty. A noteworthy fact is that the paragraphs on the continued significance of the Treaty and on the need to improve the decision-taking procedure were adopted at 18, in other words, with the participation of the associate member and observer states. Moreover it would appear that a draft of the annual report that Article IX of the modified Brussels Treaty requires the Council to submit to the Assembly is sent systematically to all 28 WEU states for comment, before the final version goes to the Assembly.

26 The Western European Armaments Organisation (WEAO) was created pursuant to Article VIII.2 of the modified Brussels Treaty as a subsidiary body of the WEU Council, despite the fact that three of its members have neither signed nor ratified the Treaty itself nor the Agreement of 11 May 1955 on the status of WEU. The defence ministers of the 13 members of the Western European Armaments Group (WEAG), meeting in Erfurt, agreed modalities for the participation in all WEAG meetings of interested WEU observer countries which are not members of WEAG. For the associate partners they drew up arrangements allowing WEAG Panels and their sub-groups to examine whether, for each item on the agenda, participation could be opened to them. Where appropriate, associate partners may be invited to participate in NAD and ministerial meetings. The Transatlantic Forum, involving the ten WEU members and three associate members, is considered to be a Council working group and observer states are also entitled to participate in its activities. The Chair of the Transatlantic Forum does not coincide with the Presidency of the WEU Council.

27. All these examples show that the overwhelming majority of WEU's activities can be conducted in a wide variety of organisational frameworks, only a very few of which are covered by the modified Brussels Treaty. Efforts to involve associate members, observers and associate partners in WEU's activities are most certainly to be welcomed. However, the more this is done outside the framework provided by the Treaty, the more the legitimacy of that Treaty is

likely to be called into question. This also applies to the relationship between the Council and the Assembly, for Article IX of the modified Brussels Treaty is only applicable to the ten full member states of WEU. This was why, in its Recommendation 618<sup>5</sup>, the Assembly called on the Council to create a sound legal basis for participation in the Organisation's activities by all those WEU states which are unwilling or unable to accede to the modified Brussels Treaty. In its reply, the Council merely referred to its Declarations of 22 July and 18 November 1997 (Erfurt).

28 In its Declaration of 22 July 1997, the Council went no further than to announce that it would examine the modalities required to allow associate member, observer and associate partner states to participate more closely in the various activities of WEU. In Erfurt, the Ministers confirmed the immediate application on a provisional basis of the arrangements contained in Article J 7.3. of the Amsterdam Treaty allowing WEU observer states to participate on an equal footing in Petersberg tasks for which the EU avails itself of the WEU. In answer to a question he put to the Chairman-in-Office on 1 December 1997 about whether these arrangements were to be submitted to the national parliaments for approval, your Rapporteur received the following answer

"The answer to the question of whether this decision will be submitted to national parliaments depends on the constitutional provisions at national level. According to the German interpretation, an amendment to the EU Treaty would bring about a consequent alteration to the WEU Treaty. As you know, the relevant provision of Article 17<sup>6</sup> has been submitted for approval to the German Parliament in the framework of the ratification procedure for the results of Amsterdam. We therefore do not consider – and I repeat that this is the German legal interpretation – that it is necessary for the Bundestag to adopt a decision on the WEU Treaty"

29 A similar position was defended under the German interpretation of international law in

<sup>5</sup> Unanimously adopted by the Standing Committee on 16 October 1997 (see Assembly Document 1581).

<sup>6</sup> Corresponding to Article J 7 of the Amsterdam Treaty