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REPORT

of the Committee on Foreign Affairs and Security

on shaping the European Community's common foreign policy

Rapporteur: Mr Josep VERDE I ALDEA

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At the sitting of 11 December 1989 the President of the European Parliament announced that he had forwarded the motion for a resolution by Mr Robles Piquer on the urgent need for a genuine Community foreign policy, pursuant to Rule 63 of the Rules of Procedure, to the Political Affairs Committee as the committee responsible and to the Committee on Institutional Affairs for its opinion.

At its meeting of 31 January 1990 the Political Affairs Committee decided to draw up a report.

At its meeting of 26 April 1990 it appointed Mr Verde i Aldea rapporteur.

At its meetings of 14 October 1991, 19 May 1992, and 15 October 1992 the Committee on Foreign Affairs and Security considered the draft report.

At the last meeting it adopted the motion for a resolution unanimously.

The following were present for the vote: Barón Crespo, chairman; Cassanmagnago Cerretti, first vice-chairman; Verde i Aldea, rapporteur; Aglietta, Balfe, Bertens, Canavarro, Chiabrande (for Bonetti pursuant to Rule 111(2)), Colajanni (for Castellina), Fernández-Albor, Ford (for Newens), Gaibisso, Holzfuß, Jepsen, Langer, Llorca Vilaplana, Magnani Noya, Onesta, Pucci (for Gawronski), van Putten (for Woltjer), Robles Piquer (for Habsburg), Sakellariou, Scott-Hopkins (for McMillan-Scott pursuant to Rule 111(2)), and Trivelli.

The opinion of the Committee on Institutional Affairs is attached to this report.

The report was tabled on 22 October 1992.

The deadline for tabling amendments will appear on the draft agenda for the part-session at which the report is to be considered.

A

MOTION FOR A RESOLUTION

on shaping the European Community's common foreign policy

The European Parliament,

- having regard to the motion for a resolution by Mr Robles Piquer on the urgent need for a genuine Community foreign policy (B3-0387/89),
 - having regard to its resolution of 7 April 1992 on the outcome of the Intergovernmental Conferences¹,
 - having regard to the conclusions of the European Council in Lisbon,
 - having regard to the report of the Committee on Foreign Affairs and Security and the opinion of the Committee on Institutional Affairs (A3-0322/92),
- A. whereas, with the signing of the Maastricht Treaty, it was decided to create a Union whose objectives are considerably more ambitious than those of the Community,
- B. whereas one of the main features of the Union is the definition and implementation of a common foreign policy designed to place greater emphasis on its international dimension and make its presence felt internationally not just in the trade and economic sectors but also in other spheres and outside the Community's frontiers in sectors beyond the commercial and economic spheres,
- C. whereas the current international context requires united efforts by the Member States, particularly in international organizations such as the UN and the CSCE, the definition of common strategies and actions and a greater role in maintaining peace and international security in accordance with the objectives of the United Nations Charter,
- D. whereas the definition and implementation of a common foreign policy would be an important factor in giving momentum to and developing the Union,
- E. welcoming the introduction of Union citizenship, the corollary to which as far as international relations are concerned is diplomatic protection, one of the consequences of which is to ensure diplomatic protection by the whole Union and not just by the diplomatic and consular services of one of the Member States,
- F. whereas, however, the foreign policy provisions agreed at Maastricht will not help to improve the democratic deficit which is ultimately to the detriment of the citizens of the Member States,

¹ OJ No. C 125, 18.5.1992, p. 81

- G. whereas the Maastricht Treaty provisions on the CFSP must be applied in strict compliance and coordination with the existing mechanisms for dealing with the external aspects of the Community's spheres of responsibility (for example, agricultural, competition, scientific and technological research, economic and social cohesion and environmental policy, etc.),
- H. convinced that the CFSP must be based on the principles of the United Nations and the CSCE and be designed to promote, internationally, policies for disarmament and the peaceful settlement of conflicts,
- I. expressing its criticism of the provisions of Article 228a (new) of the EC Treaty which enables the Council to take measures to interrupt economic relations with one or more third countries without having to seek Parliament's opinion,
- J. having regard to the need for greater clarity in relations between COREPER and the political Committee in order to establish clearly the respective spheres of responsibility of those bodies,
- K. concerned at the fact that, within the Union, the Commission does not have powers of external representation equal to those of the Presidency, whereas, under the Treaty of Rome, such powers were mainly conferred on the Commission,
- L. deploring the fact that the Maastricht Treaty has not sufficiently clarified relations between the various Community institutions as regards the external representation of the Union,
- M. recalling that most of the representations successively set up by the Commission, often with Parliament's encouragement, have concentrated their efforts on administering the development cooperation provided by the Community and hence have been set up almost exclusively in capitals of the Member States of the Lomé Conventions or in Latin American, Asian or Mediterranean countries,
- N. whereas the Council must clearly define, as soon as possible and in accordance with the procedure laid down in Articles 5.2, 5.3 and 5.4 of the Maastricht Treaty, the general principles for the adoption of common action on the basis of criteria which are in the interests of Member States' citizens,
- O. whereas the criteria for common action as defined in Lisbon should be forwarded to Parliament for its opinion,
- P. whereas majority voting on foreign policy matters defined by the Council as concerning the Union is essential if the overall strategy of such policy is to be effective,
- Q. whereas the creation of common embassies representing either or all the Member States of the Union or some of them could help to affirm the international identity of the Union and would be in accordance with its interests,

- R. determined to play an active role in clarifying and improving the definition and implementation of the procedures agreed on in respect of foreign policy, bearing in mind the ultimate objective of a federal-type Union,

General comments

1. Considers that the objectives of a common foreign policy as set out in Article J.1 of the Maastricht Treaty are in line with the interests of the peoples of the Union;
2. Believes that the current allocation of foreign policy responsibilities between the institutions of the Union may be accepted only in so far as the present phase can be considered as a transitional period leading ultimately to the full democratization of the process of defining and implementing the common foreign policy;
3. Considers that, in the current phase, there should be a clearer definition of the roles of each institution in order to clarify the substance of the Maastricht Agreement and enable Parliament to exercise effective and democratic control over the activities of the Council and the Commission in the field of foreign policy through all the instruments available to it;
4. Requests that steps be taken without delay to review fearlessly and radically the question of the presence of the Community Member States in the United Nations, particularly in the Security Council, in order to ensure that they are really represented jointly in accordance with the spirit of the European Union, and that this coincides with decisive Community action to promote a more comprehensive reform of the United Nations, to make it more democratic, representative and effective;

in respect of the Council

5. Calls on the Council to give an undertaking to consult Parliament regularly in advance of all its foreign policy measures and to take account of its opinion;
6. Calls for special channels to be set up enabling the necessary information and documents to be forwarded rapidly to Parliament to ensure that such consultation is both effective and useful;
7. Stresses that the current division of responsibilities between COREPER and the political Committee constitutes an element of uncertainty which is detrimental to the transparency required in relations between the Council and Parliament;
8. Calls on the Council to consult Parliament, should it have to decide whether to interrupt trade relations on the basis of Article 228a, before any decisions are taken and, where this is not possible owing to justifiable reasons of urgency, to consult Parliament immediately afterwards and modify its position to take account of Parliament's opinions;

9. Deplores the fact that instead of a genuine common foreign and security policy, it was decided in the Maastricht Treaty to assign a large share of responsibility for security policy to a parallel organization, such as the WEU, which does not include all the Member States, is not under the democratic control of the EP and is furthermore still an intergovernmental institution largely outside the control of the Community authorities;
10. Considers that the Council must give an undertaking to take part regularly in the meetings of the Committee on Foreign Affairs and Security and attend question time within the committee since it is mainly in this way that the continuity of Parliament's supervision can be guaranteed;
11. Calls on the Presidency to submit its foreign policy programme at the beginning of each six-monthly term of office and to take account in the implementation of that programme of the opinion expressed by Parliament;
12. Calls on the Presidency to maintain the Commission's role in the external representation of the Union in order not to weaken its position with respect to the Treaty of Rome;
13. Urges the Council, in view of the new developments and the tasks envisaged in the Maastricht Treaty, to make provision for the inclusion of EP delegations in the Community delegation to UN, CSCE and other conferences;
14. Considers that the basic criteria for justifying the adoption of common measures are crucial factors in shaping the foreign policy of the Union and that Parliament should therefore be consulted before such criteria are finally adopted and whenever it is necessary to modify those criteria as required by the international situation;
15. Calls on the Council to forward to Parliament, for its opinion, the Foreign Ministers' report on the probable development of the CFSP, annexed to the conclusions of the Lisbon European Council, and to amend it on the basis of the comments made by Parliament;
16. Calls on the Council to open common embassies for the Member States when this seems appropriate, especially in countries where they are not now represented or where their interests are most easily combined;
17. Hopes that the new embassies will use the services of the officials employed in the diplomatic services of the Member States, so that they may acquire the habit of defending the views and interests of the Union and not only of the Member States;
18. Draws the Council's attention to the importance of the recommendation contained in Article J.7 of the Maastricht Treaty in so far as this means that any action undertaken by the Council may be deemed legitimate or otherwise by Parliament;

in respect of the Commission

19. Calls on the Commission to submit its foreign policy guidelines to the Parliament before they are forwarded to the Council and to deliver at the same time an assessment of the financial implications of such proposals;
20. Considers that the Commission must ensure that any information at its disposal on foreign policy matters and information which it receives from its representatives and delegations outside the Union is forwarded to Parliament in an appropriate form, and that it takes account of Parliament's opinion;
21. Considers that Parliament should be informed of the appointments of Union ambassadors and Commission delegates when they have been made and that Parliament's committees should be informed thereof if they so request; calls on the Commission to take steps to establish, together with Parliament, the appropriate procedure for this purpose;
22. Considers that at present the EP does not have the powers and instruments it needs to play an adequate role in a common foreign and security policy and therefore requests that the relevant powers be broadened;

in respect of Parliament

23. Considers that Parliament must make maximum use of the instruments at its disposal under the Maastricht Treaty;
24. Notes that according to the conclusions of the European Council in Lisbon questions with implications for defence, within the meaning of Article J.4 of the Maastricht Treaty, are not subject to the process involved in common action, but reaffirms its right to be consulted in order to ensure democratic control over this important sphere of action of the governments of the Member States;
25. Believes that, given the specific nature of foreign policy, provision must be made for special procedures to guarantee the confidentiality of proceedings, otherwise the Union's activities in this sector will be seriously undermined;
26. Stresses the importance of the financial side of foreign policy activities; reserves the right to take action under the budgetary procedure to ensure that due account is taken of its opinions;
27. Considers that, in the event of a serious, prolonged dispute with the Council and/or the Commission on foreign policy issues, it must resort to a motion of censure on the Commission, this being the only effective means of pressure at its disposal when supervising the executive and the Member States which appointed it;

28. Calls on its Committee on the Rules of Procedure, the Verification of Credentials and Immunities to define the procedures for implementing the instruments mentioned in the Maastricht Treaty, such as the consultation and recommendation processes, and to draw up the necessary rules for permanent dialogue with the Council and the Commission on foreign policy issues;
29. Considers, by extension, that the same type of measures should be adopted in respect of security matters, since it is necessary to establish with the other institutions concerned, particularly the WEU Council, a system of rules compatible with the efficient performance of the duties of representation and democratic control assigned to the European Parliament;

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30. Instructs its President to forward this resolution to the Commission, the Council, European Political Cooperation, the governments of the Member States, the Secretary-General of the United Nations, the CSCE and the WEU Council.

EXPLANATORY STATEMENT1. International dimension of the Community

Allied to its essentially economic and commercial character, the Community has always had a clear international vocation.

It substitutes the Member States on the international stage in all the areas of policy which fall within the Community competence (trade, agriculture, fisheries, etc.).

It is natural that with the Maastricht agreements, the Community's international dimension has become even more important, even though the outcome of the Conference on Political Union did not come up to the European Parliament's expectations.

2. European Political Cooperation as the embodiment of an international presence which goes beyond the economy and trade

The EEC Treaty did not confer powers on the Community in the field of foreign and security policy.

Nevertheless, as early as 1970, EC ministers considered and approved the Davignon report which, inter alia, laid the foundations for Community cooperation in the field of international affairs.

This was the origin of European Political Cooperation, which aimed to promote the harmonization of standpoints, the shaping of attitudes and, where possible, joint action in the sphere of foreign policy. This instrument comprised two meetings of Foreign Ministers each year and four meetings each year of the Political Committee composed of senior officials of the Foreign Ministries.

The Single European Act institutionalized EPC, Title III of the Act being devoted to Treaty provisions on European Cooperation in the sphere of foreign policy. It stipulates that members 'shall endeavour jointly to formulate and implement a European foreign policy' (Article 30(1)), and it further states that 'closer cooperation on questions of European security would contribute in an essential way to the development of a European identity in external policy matters' (Article 30(6)(a)).

EPC nevertheless remains anchored in the sphere of intergovernmental rather than Community cooperation. Moreover, unanimity generally makes it impossible to go beyond issuing declarations, which are not followed by action.

3. Inadequacy of EPC in the face of new international challenges

In 1989 and 1990 the Community - which was going through a phase marked by strengthening of its institutions and euphoria at the completion of the Internal Market - was faced with international events on a scale which went far beyond the Community's ability to respond.

The radical changes in Central and Eastern Europe demonstrated the inadequacy of EPC, even though they came about largely without the involvement of the Community and without being anticipated. Nevertheless, as the Strasbourg European Council stressed, the Community must provide the basis for future stability in Europe.

The extremely limited impact of the Community and Europe in general was highlighted at every stage of the Gulf crisis, an event heralded as nothing less than the starting point for a new world order, which was also affected by the profound changes in Central and Eastern Europe.

It therefore seems logical to endeavour to move towards a Community which incorporates both economic aspects and political aspects relating to foreign policy - with a view to transforming it into a common policy in the widest possible sense - and security.

4. The new dimension of a common foreign policy

The decision of the Dublin European Council to convene the Intergovernmental Conference on Political Union gave rise to the idea - made a necessity by the international events referred to above - of extending the Community's competencies to foreign policy.

In the Martin report, adopted on 22 November 1990, the European Parliament lists the following as suitable Community activities in the field of foreign and security policy: those connected with the maintenance of peace and security, the peaceful settlement of disputes within the framework of international law, the reduction of armaments and the strengthening of social harmony based on respect for human rights. Parliament has basically continued to move in this direction, drawing consequences from the proposals put forward in the above report.

The Rome European Council of December 1990 pointed to 'the broad agreement on basic principles concerning the vocation of the Union to deal with aspects of foreign and security policy, in accordance with a sustained evolutive process and in a unitary manner on the basis of general objectives laid down in the Treaty'.

5. The general objectives of a common foreign policy

The Rome European Council itself proposed the general objectives which should be formulated in the Treaty; these objectives are acceptable but evidently insufficient.

The Council considers that the general objectives should be:

- maintaining peace and international stability;
- developing friendly relations with all countries;
- promoting democracy, the rule of law and respect for human rights; and as an instrument for achieving these objectives,
- encouraging the economic development of all nations, also bearing in mind the special relations of individual Member States.

It is clear that the list of objectives can and needs to be expanded by making some of the objectives formulated in an excessively general way more specific and by including previous statements by the Community institutions and the Council itself. In this sense, it seems logical that the objectives should also include:

- disarmament and arms control, as well as economic and technological cooperation in this field and with regard to arms experts;
- community of action in international organizations, particularly the United Nations and the CSCE.

This field of competence should gradually be expanded with a view to incorporating new objectives where Community integration so allows and the international situation so requires.

6. Principal fields of action for the objectives of a common foreign policy

There is no doubt that, as the Council's declarations, Parliament's resolutions and the Commission's proposals show, international organizations represent a priority element in a Community foreign policy and common external relations.

Given that the first CSCE meeting in Helsinki in 1975 was the first international forum at which the Community spoke with one voice, it is logical to conclude that the CSCE, particularly following the Paris Charter, might provide the main nucleus to implement the objectives of active participation in the new structure of peace and security in Europe, as Parliament recommended in the Romeos report (...).

Nevertheless, Europe is calling on the Community to take up clear positions on other questions over and above the problems of cooperation and security addressed by the CSCE: in relation to EFTA and questions involving the European Economic Area and the integration already requested by some of its members, and also the complex network of political steps which were awaited both by the former Soviet Union and the countries of Central and Eastern Europe. The new generation of agreements with these countries, whose economic dimension is already almost outweighed by the political dimension, require a political response from the Community which overcomes the earlier sharing of influence among Western countries which are now Community Member States.

The United Nations, which has gained fresh importance following the end of the Cold War with its corresponding bipolarity, and in the wake of the tendency towards American hegemony arising from the Gulf War, needs to find a new profile and play an important part in what is emerging as a new world order.

In the light of the above, the European Community, which is a basic and actively effective element should create a structure of peace and cooperation in the Mediterranean, particularly in its Western sector, where mutual links are of vital importance.

Finally the Community should continue to work unitedly within GATT, a forum which has a marked impact on the economic and trade dimension of international life.

7. The common foreign and security policy after Maastricht

In the context of the various systems added, modified or confirmed in the Maastricht agreement, the common foreign and security policy and the policy on justice and home affairs are, as far as procedures and approach are concerned, the same kind of institutional, decision-making and operational structure. The main features making up this structure are as follows:

- (a) Each of these two policies comprises a Community section and - which is more important - an intergovernmental cooperation section.
 - The Community has responsibilities in foreign policy (commercial policy, development, etc.)
The common foreign and security policy, administered by the new structure deriving from EPC, may extend to all spheres.
- (b) Action in the two spheres is twofold:
 - exclusively intergovernmental cooperation; thus common positions; the obligation for the Member States to abide by them; implementation by the Member States and, within its field of competence, by the Community. The matters dealt with in this way are still the responsibility of each State;
 - joint measures: hence setting of joint objectives; the obligation for the Member States to abide by them; implementation by the Member States or the Community or by specific administrative structures such as Europol or departments of the WEU. In principle the matters dealt with in this way are no longer the responsibility of the individual States.
- (c) Decisions in these two fields are prepared by committees of high-level national officials, who do not belong to COREPER.
- (d) The European Council plays a general guiding role in decision-making process for the common foreign and security policy.
 - (i) as regards exclusively intergovernmental cooperation, the principle is concertation and consultation within the Council. The latter may draw up common positions. The behaviour of the Union and its Member States in international organizations are also dealt with in this context;
 - (ii) as regards common measures, the Council decides unanimously whether a matter is to be the subject of joint action and determines its scope, objectives, etc. In the field of justice and home affairs there is specific reference to the principle of subsidiarity. The Council may decide that implementation is to be achieved by a qualified majority;
 - (iii) the Commission is to be fully involved and has a non-exclusive right of initiative, except for police and customs cooperation;
 - (iv) the European Parliament must be consulted on the main aspects of the two policies, is regularly informed and may put questions to the Council;

- (v) the Court of Justice has no role (except, probably, in defining the limits of Community competence;
 - (vi) by decision of the Council, expenditure in the field of common foreign and security policy may be financed by the Community budget (in which case the Parliament can play its role) or by national contributions, possibly shared out according to a specific formula.
- (e) The annex to the Treaty contains the following as far as the common foreign and security policy is concerned: a list of the fields covered by common action from the beginning (CSCE, disarmament and arms control, non-proliferation of nuclear weapons and the economic aspects of security); a kind of agreement with the WEU, which strengthens its military structure, envisages its absorption into the Union and raises the issue of cooperation between Parliament and the WEU Assembly; an invitation to all the Member States to join the WEU.
- (f) As regards the EEC Treaty, it should be noted that an amendment to Article 228 empowers Parliament to give its assent (by a simple majority) on international treaties which are already (Article 238) subject to assent, cooperation treaties (containing special institutional provisions) and treaties having important budgetary implications and entailing amendments to decisions taken under the codecision procedure.

8. Consulate services for European citizens

The Union also accepts the concept and reality of European citizenship, without which the construction of the Community would lack its most important human dimension. It is extremely difficult to envisage a Europe for everyone without European citizens.

European citizens represent a new development which needs to be recognized and protected not only within Community territory but throughout the world. Diplomatic and consular services in particular must cast off the rigidity by which they are strictly linked to one of the Member States and are exclusively concerned with nationals of that State.

Effective and flexible formulae need to be found to allow such services to be provided outside the Community to all Community citizens, irrespective of nationality.

The Maastricht Treaty provides a response to this need by creating the concept of Union citizenship, which is accompanied by obligations regarding diplomatic and consular protection.

With a view to achieving this objective, a study should be undertaken as soon as possible proposing measures to enable the civil service outside the Member States to find ways of integrating at Community level the services intended for European citizens.

9. Assessment of results and future prospects

The whole debate at the Intergovernmental Conference hinged on the question whether or not to go beyond political cooperation as we now know it. For this reason, the best way to assess the results of the Intergovernmental Conference is to compare the Maastricht Treaty with the text of Title III of the Single Act.

As regards foreign policy proper - leaving aside security policy for the moment - progress has been very slight. Admittedly the ultimate objective has been formulated in more ambitious terms - a common foreign and security policy undoubtedly goes farther than the European foreign policy referred to in the Single Act, but it is all mere rhetoric unless there are actual commitments and procedures.

The commitments made in the Maastricht Treaty are broadly speaking the same as in the Single Act, although they are formulated in a more definite way (compare Article J.2(2) and J.3(4) of the Maastricht Treaty with Article 30(2) of the Single Act). The procedures are also based largely on the Single Act, but with the addition of joint action (Article J.). However, Article 30 of the Single Act already talked about the execution of joint action.

It should be noted that Article J.3(2) mentions the possibility of qualified majority voting on the implementation of joint action. This provision is of symbolic importance, but the difficulties inherent in the proposed procedure and the interminable debates it gave rise to during the Conference raise doubts as to whether it will actually be used. The inevitable conclusion seems to be that little progress has been made in this sphere and the advocates of the status quo in the field of foreign policy have largely prevailed. One might ask whether this is an adequate basis for Europe to assert its identity on the international scene, in particular in implementing a common foreign policy, as stated in Article B of the Maastricht Treaty.

Before examining the subject more closely we should establish some basic points: on the one hand the Union is given responsibility for foreign and security policy, whilst on the other the democratic deficit seems to be accentuated in this area. As an example, we could quote the new Article 228a of the EEC Treaty, according to which the Council may decide to interrupt in part or completely economic relations with a third country without having to consult the European Parliament.

Furthermore, the creation of a common foreign policy with mechanisms and procedures of its own must not under any circumstances undermine the Commission's powers in the implementation of the external aspects of Community policies.

10. The role of the institutions

However the Community develops, the role of each of the institutions in the implementation of the common foreign and security policy must be defined. In this as in the other common policies, the principle of the separation of powers is not applied fully.

In the individual States foreign policy is traditionally the exclusive competence of governments. This is because of the very nature of the policy, the legislative nature of which is fairly limited. Parliaments can monitor government action in the field of foreign policy using the usual instruments-questions, motions of no-confidence, the adoption or rejection of international treaties, and by means of ratification procedures. However, the often confidential and secret nature of foreign policy limits the traditional activities of parliaments.

Under the Community system the chief legislative body, the Council, is also given the role of originating and managing foreign policy whilst the executive, the Commission, is only given a right of initiative. Parliament's role is even more marginal since it has limited powers to propose legislation (by means recommendations) and is not able to sanction the activities of the Council.

The development of the European enterprise should ultimately lead to the creation of two-chamber system consisting of Parliament and the Council, in which the executive, the Commission, will be responsible for administering foreign policy and will be subject to parliamentary control, including censure. The Maastricht system will operate in the short and medium term and hence, quite apart from institutional considerations, the question arises what organizational procedures will ensure the effective operation of the system.

It is not Parliament's role to implement foreign policy, although it must have the powers needed to influence the Council, monitor its activities and ensure that these activities are in the interests of the peoples of the Union.

In view of this the Commission and the Council should ensure that a constant flow of information reaches Parliament. The Commission should also undertake to submit to Parliament the names of its delegates and representatives outside the Community. It is up to Parliament to exploit the budgetary procedure as an instrument for exerting control and influence in order to ensure that its opinions are taken into account. Finally, the creation of a genuine common foreign policy would be helped by the creation of joint embassies wherever possible.

11. Interinstitutional mechanisms

The Treaty on European Union confers the main powers in the field of foreign and security policy in the Council. It is for the European Council to decide that a matter may be the subject of joint action and the presidency is responsible for carrying out such action. Once the European Council has established the principles and general guidelines, the Council implements its decisions. Decisions are taken unanimously, except in cases where it has been (unanimously) decided to vote by a majority.

The Commission is involved in foreign and security policy and has a right of initiative. The Court of Justice is completely excluded from the system. Parliament is consulted about the main aspects of the policy and fundamental decisions concerning it. It has the right to put questions or submit recommendations to the Council. Finally, it holds an annual debate on developments in foreign and security policy.

As Parliament has advocated on several occasions², the Council should accept the obligation to consult Parliament beforehand and regularly on foreign policy decisions.

This means that proposals for decisions and joint action on foreign and security policy should be promptly forwarded to Parliament, even unofficially in certain cases, so as to enable the relevant parliamentary bodies to state their views.

Special channels must therefore be set up for the forwarding of information from the Council to Parliament. Parliament should have access not only to the decisions which the Council intends to adopt, but also to all the necessary information. The cases in which the Council adopts joint action without requesting the prior opinion of Parliament must be restricted to a minimum and in any case the Council should consult Parliament as soon as possible.³

In order to make the Council's activities clearer and more transparent, the respective competences of COREPER and the political committee must be defined. Parliament must have specific and responsible interlocutors and no longer tolerate the existence of grey areas in the administration of foreign and security policy.

The 'non-legislative' and confidential nature of foreign policy is not conducive to the traditional forms of consultation. Whilst it is perfectly feasible for the general guidelines of the policy - such as the half-yearly work programme or the presidency's report - to be presented in plenary, it seems difficult to apply these procedures for individual measures or declarations. Parliament would not be able to deliver its opinion with the necessary promptness and would not be able to ensure the degree of confidentiality that the Council might wish.

In fact, often the international situation leads the Member States to take up positions at short notice which do not fit in with the breaks in parliamentary sessions and the separation between the various places of work. Consequently a fast channel must be set up via the competent parliamentary bodies, in particular the Committee on Foreign Affairs and Security, to act as the Council's special interlocutor.

The following procedures could be established: proposals for decisions to be forwarded immediately to Parliament via the Committee on Foreign Affairs; in urgent cases Council representatives and the committee bureau could meet, for example at the end of certain Councils in which foreign policy measures are on the agenda; in addition, the Council presidency (or even representatives of the Troika, to make the system more flexible) should attend committee meetings at least once a month; there should also be a 'question time' in committee on subjects agreed on beforehand with the Council presidency. Finally, in cases of relative urgency, the committee could hold extraordinary meetings not included in the usual calendar of meetings.

² Cf. Mrs Cassanmagnago Cerretti's opinion on the outcome of the Intergovernmental Conferences (Doc. A3-0123/92, Part II).

³ In order to make the forwarding of documents easier, a telematic network should be set up linking the two institutions in real time and enabling documents to be transmitted through data processing circuits. This would speed up the whole procedure.

The above proposals apply *mutatis mutandis* to relations between the Commission and Parliament. The Commission also should undertake to inform the Committee on Foreign Affairs as a matter of priority about foreign policy proposals which it intends to put forward, accompanying such proposals with an assessment of the budgetary implications of the proposals.

Furthermore, the Commission should ensure that it forwards to Parliament relevant information it receives from its delegations of the offices representing it. The necessary steps to ensure confidentiality should of course be taken. This would allow Parliament to monitor the activity of offices abroad and obtain information on the preventive diplomatic measures that the Community intends to adopt.

As far as relations between the Commission and the Council are concerned, the presidency should preserve the role of the Commission as representative of the Community and the Union in international relations.

12. The recommendation procedure

The Maastricht agreement provides for a specific procedure in addition to the consultation procedure - the power to make recommendations. The recommendation is a political rather than legal instrument; it is not legally binding but is a political act addressed primarily to the Council, and its value is enhanced if specific majorities are required for its adoption (e.g. an absolute majority of Members). It is up to Parliament to exploit to the full this opportunity offered by the Maastricht Treaty. The power to issue recommendations on foreign policy may once again be transferred to the relevant committee if time is particularly short. The committee is a specialized forum for the discussion of foreign policy, especially in so far as it maintains continuous links with the Council presidency and with the Commission. To assign this power to the committee, subject to possible referral back to plenary, in accordance with procedures and forms to be agreed on, would also help to prevent increasing the burden on plenary sittings. Recommendations are to be addressed to the Commission and/or the Council and also be sent for information to the other institutions. They should outline the background to the issue in question and indicate succinctly (in two or three paragraphs) what kind of action Parliament considers the Council should opt for. The recommendation achieves two aims: to ask the Council to adopt a specific approach and to confer legitimacy on its action.

Judicious use of this instrument would enhance the powers at Parliament's disposal. In fact, it is difficult to imagine that the Council would wish to deviate systematically from Parliament's position. It is more likely that, as at present in the cooperation procedure, there it would tend to accept - at least in part - the suggestions put forward by Parliament.

13. The motion of no-confidence

The question then arises as to how Parliament can exercise control over the work of the Council and to a lesser extent, over that of the Commission. When joint action is adopted, Parliament must be able to approve or reject what the Council decides. This is what generally happens in a normal institutional relationship, in which the parliamentary body approves or rejects the government's policy. Although under the Community system the European Parliament cannot censure what

Council does, it is in the latter's interest to ensure that Parliament agrees with its policy.

Parliamentary control will be carried out once a year in the debate on developments in foreign policy provided for in the Treaty on European Union, but also in individual cases, depending on the importance of the subject under discussion. Effective use of this 'discharge' instrument in the sphere of foreign policy would make the Council extremely receptive to Parliament's opinion. There would be substantial negative repercussions if Parliament did not approve of the Council's approach on particularly serious matters and this danger would induce the Council to try to obtain parliament's prior approval in order not to find itself in conflict with it at a later stage.

Another effective instrument for control is the motion of no-confidence or censure against the Commission. In the relationship between the Community institutions Parliament should not hesitate to use this instrument, not only when the Commission is the direct target, but also and above all when the intention is to affect the Council. It is an imperfect and indirect institutional instrument, but Parliament should nevertheless have recourse to it in cases where there is a particularly serious clash with the Council on foreign policy. In the absence of other powers such as the possibility of blocking the execution of joint action or the adoption of a common position, the only instrument it has at its disposal is to censure the Commission, which will ultimately damage the Council and the Member States which, in the final analysis, appointed it. On the other hand, Parliament's strategy should make the Commission endeavour to submit to Parliament beforehand the initiatives which it intends to submit to the Council, and to withdraw such proposals when they do not meet with Parliament's approval. Obviously, persistent refusal on the part of the Commission to comply with Parliament's opinion should lead to the tabling and adoption of a motion of censure.

14. Specific aspects of security

Most of the observations made above should also apply, by analogy, to security policy. As a result of the Maastricht Treaty, the WEU has become part of the Union and is responsible for security matters. Parliamentary control over the activities of the WEU Council must be carried out by Parliament, the only democratically elected body. This means that to all intents and purposes the European Parliament must replace the WEU Parliamentary Assembly which consists of members who, according to the statutes, must be members of the national parliaments and of the Parliamentary Assembly of the Council of Europe. In view of this the European Parliament should enjoy the same rights of initiative and control that it has vis-à-vis the Council and the Commission - questions, recommendations, etc.

It is therefore essential that the WEU Council should formally commit itself to answering questions, presenting its activities during plenary or in committee - in other words to applying the procedures governing the foreign policy sphere.

MOTION FOR A RESOLUTION

pursuant to Rule 63 of the Rules of Procedure
by Mr ROBLES PIQUER
on the urgent need for a genuine Community foreign policy
(B3-0387/89)

The European Parliament,

- A. whereas the European Community's lack of unity means that its economic strength is not matched by a corresponding political strength,
 - B. whereas European Political Cooperation as it presently stands constitutes an encouraging but inadequate response to the need for a unified foreign policy,
 - C. whereas this situation continues to give rise to what the Italian Professor Carlo Pelanda of Georgia (USA) has called 'too many Europes' in an article which underlines the Community's lack of a unified foreign policy, instancing areas such as the crises of the Soviet system, Lebanon and underdevelopment in the Third World,
 - D. whereas a unified foreign policy would also allow the question of European security to be tackled at Community level,
 - E. whereas an own-initiative report is urgently required on the successes and shortcoming of European Political Cooperation.
1. Calls for all the measures available under the Single European Act to be applied and for the present obstacles to the achievement of a unified foreign policy to be overcome, if necessary by modifying the Single Act.
 2. Instructs its President to forward this resolution to the Commission and Council.

OPINION

of the Committee on Institutional Affairs

Letter from the Chairman of the committee to Mr BARON CRESPO, Chairman of the Committee on Foreign Affairs and Security

Brussels, 24 September 1992

Subject: Draft report on shaping the European Community's common foreign policy (rapporteur: Mr VERDE I ALDEA) - opinion of the Committee on Institutional Affairs

Dear Mr Chairman,

At its meeting of 23-24 September 1992, the Committee on Institutional Affairs considered the following draft opinion and adopted its conclusions unanimously.¹

- I. The Committee on Institutional Affairs mainly based its comments on the following documents:
- the motion for a resolution by Mr Robles Piquer, which is the basis for the committee's consideration of the subject (Doc. B3-0387/89/Corr.);
 - the resolution of 22 November 1990 on the intergovernmental conferences as part of the European Parliament's strategy to achieve European Union (the Martin III Report, OJ No. C 324, 24.12.1990, p. 211 ff and, in particular, Article 130u (new));
 - the resolution of 10 October 1991 on the Intergovernmental Conference on Political Union (OJ No. C 280, 28.10.1991, p. 148 ff.);
 - the Treaty on European Union of 7 February 1992 and, in particular, Article J;
 - the draft report by Mr Verde I Aldea of 9 June 1992 on shaping the European Community's common foreign policy (PE 201.471/A+B).

¹ The following took part in the vote: Oreja Aguirre, chairman; Prag, first vice-chairman; Aglietta, Blot, Bourlanges, Capucho, De Gucht, De Giovanni, Herman, Roenn, Roumeliotis, Valverde and von Wechmar

- II. Title V of the Treaty on European Union, the provisions on a common foreign and security policy, created a new framework, superseding European Political Cooperation (EPC) as described in Article 30 of the Single Act. Whether this amounts to a step forward in substantive terms cannot be the subject of this opinion.² The Committee on Institutional Affairs is more concerned to assess the achievements of the Treaty of Maastricht in the light of the EP's institutional demands and - pursuant to the duty imposed on it by the resolution of 7 April 1992 on the findings of the intergovernmental conferences - 'make maximum use of the instruments at its disposal under the Maastricht Treaty'. To achieve this, the Committee on Institutional Affairs deems it appropriate for the EP to consider Mr Verde I Aldea's report at the October 1992 part-session, as planned by the committee responsible. In this way, Parliament can decide how it intends to take advantage of the provisions set out in Articles J to J11 of the Treaty. The decisions thus taken must then be taken into account in the review of the Rules of Procedure scheduled for November.
- III. Title V of the Treaty of Maastricht has a number of virtues but also a number of weaknesses. Its main virtue is probably outside Title V itself, in Article C of Title I (Common Provisions), which lays down that the Union shall have a single institutional framework. The same Council, in conjunction with the Commission, is to be responsible for safeguarding the consistency and continuity of activities in the context of external relations, security, and economic and development policies. There is still no single institutional framework; nor is the necessary consistency of foreign and security policy with other Community policies assured. It is for the European Parliament to insist that these commitments are respected.

Article C also contains a statement that should be of significance in connection with Article J: it speaks of 'respecting and building upon the *acquis communautaire*'. After Maastricht, according to Article J3 this *acquis* includes a decision-making apparatus for joint action, that is fundamentally based on unanimity in the Council (the procedure of joint action does not apply to defence matters). True, pursuant to Article J3 II the Council does decide over issues in which a decision must be taken with a qualified majority. But experience of Article 130s of the EEC Treaty as currently framed gives no grounds for hope that this option will be frequently employed, even in important matters. Nor does the 27th declaration attached to the Treaty on voting in the field of the common foreign and security policy offer any guarantee that the qualified majority, which alone might be capable of ensuring the necessary efficiency of the decision-making procedure, will be used effectively. The compromise reached by the Intergovernmental Conference emphasizes as a matter of principle the need for unanimity. In doing so, the conference selected the least efficient of the options discussed, though it was the one that was most popular with the governments of the Member States.

² See, for example, Elfriede Regelsberger, *Die Gemeinsame Außen- und Sicherheitspolitik nach Maastricht - Minimalreformen in neuer Entwicklungsperspektive*, *Integration* 2/92, p. 83 ff

Given this starting point, it will be the task of the EP and, in particular, the EP committee responsible to insist that maximum use is made of the qualified majority.

'Building upon the *acquis communautaire*', as stipulated in Article C, can only mean from the point of view of the EP - as proposed in its resolution of 22 November 1990 - that decisions in the field of foreign policy will be taken in the Council pursuant to the second indent of Article 148(2) of the Treaty and a precisely defined opting-out procedure by the same majority must be approved. This is the only procedure that can ensure the necessary efficiency of decision-making and, where appropriate, permit necessary exemptions for individual (for example, 'neutral') Member States.

In view of the forthcoming enlargements of the Community/Union, this issue is of particular relevance. Of the seven countries that have currently lodged applications for membership, five have neutral, albeit differing status. If the unanimity rule in the Council were retained, decision-making could well prove difficult after enlargement, to a great extent preventing the Union from pursuing an effective foreign policy. Statements by the Austrian, Swedish¹ and Swiss² Governments indicate that problems shaping foreign policy due to participation of these countries should not be expected, which in plain English may mean an embargo on the unanimity required. Only the model proposed by the EP could avoid embargoes of this kind. Article C allows the Union to insist on a solution of this type in negotiations on accession. With regard to the Union's internal development Article O - in addition to Article C - enables institutional development of this kind to take place by addressing the 'adjustments to the Treaties on which the Union is founded which such admission entails'. As the EP's assent to enlargements is required, it possesses the necessary means of giving force to its demands. This is the background to the call made in paragraph 16(g) of the resolution of 7 April 1992 'to address many of the problems before the Intergovernmental Conference scheduled for 1996'. In fact, the conference would be too late, bearing in mind the anticipated timescale for the first enlargements. Any review in 1996 pursuant to Article J 10 in conjunction with J 4 and 6 will clearly involve the prospect of extensive amendments.

- IV. The greatest weakness of Title V was singled out in paragraph 2(a) of the above resolution of 7 April 1992: the 'pillar' structure that 'leaves the common foreign and security policy outside the European Community Treaty (with, therefore, a lesser role for the Commission and for Parliament and no possibility of appealing to the Court of Justice) and will confuse the rest of the world, with the "Union" (represented by the Presidency of the Council) acting in some areas and the "Community" (represented by the Commission) acting in others'.

¹ Interview with Anders Björk, Swedish Defence Minister, *Libération*, 30 June 1992, p. 13

² Report on Swiss accession to the European Community, Rome, 20 May 1992

This structural inadequacy acquires fresh importance from the discussion about the association of third countries to the intergovernmental pillars (and the debate sparked off by the Danish referendum). The Committee on Institutional Affairs has already insisted in paragraph 6 of the motion for a resolution in the Hänsch Report (Doc. A3-0189/92) that these - desirable - associations must come about 'without, however, preventing the development towards genuine, full-blown Community powers in those sectors'. In fact, full-blown Community powers remain the principal objective. The Committee on Institutional Affairs considers that, in its resolution of 22 November 1990 and particularly in Article 130u of the EEC Treaty, the EP has provided an operational model.

- V. Article J 7 describes the role assigned by the Treaty of Maastricht to the EP in the field of foreign and security policy. This description must be interpreted in such a way that it approaches as closely as possible the EP's call in its resolution of 10 October 1991, which states that the European Parliament 'shall be associated with the formulation of foreign policy and shall monitor its implementation'. To this end, the EP calls on the European Council to 'define the essential common interests which shall be submitted to the European Parliament for approval'.

Under Article D of the Maastricht Treaty, the European Council is to report regularly to the European Parliament. Should any of these reports fail to be sufficiently prompt or precise, the EP must at all times be in a position to respond on its own initiative. For this reason, continuous monitoring of foreign policy by the committee responsible is necessary. For this reason, the current presidency has declared its willingness to notify the committee at every meeting of the current state of affairs. This is part of the institutional acquis, which from the EP's vantage point was supposed to be promoted through changes to the Rules of Procedure. In future every committee meeting will - if necessary - be a colloquy in the sense of Rule 57 of the Rules of Procedure. Or - to put it another way - there will no longer be any specific quarterly colloquies. Consideration might also be given to enabling committee meetings to receive and discuss confidential information more easily than before.

The European Parliament - and that means every MEP - can also use questions to exercise Parliament's monitoring and initiative functions. In future these will all be addressed to the Commission or Council and no longer to EPC.

The European Parliament has been granted a special instrument in the form of 'recommendations' to the Council. The European Parliament has no right to propose legislation in the field of foreign and security policy, though it can seek the cooperation of the Commission, which is dependent on it. But it can employ recommendations in such a manner as to give them considerable political weight. This entails making sparing use of this instrument and an efficient internal filter when recommendations are drawn up in order to fully exploit its special political status and importance. One might consider reserving draft resolutions containing recommendations for the committee responsible. This would avoid every resolution adopted under the urgent procedure being elevated to this rank, thus devaluing the recommendation as a weapon.

VI. Conclusions

The Committee on Institutional Affairs calls on the committee responsible to take the following points into account in its motion for a resolution in the report on shaping the European Community's Common Foreign Policy (the Verde I Aldea report):

1. Where Article C of the Maastricht Treaty talks about 'building upon the *acquis communautaire*', care must also be taken to ensure that decisions in the field of foreign policy are taken in the Council pursuant to Article 148(2), second indent, of the EEC Treaty and to approve, where necessary, a carefully specified opting-out procedure by the same majority.
2. So long as the treaty position remains the same, the EP will ensure that the Council takes advantage of its powers to take decisions by a qualified majority in order to make the Union capable of action.
3. The proposed enlargements of the Union should not permit political issues to be decided by the use of interinstitutional mechanisms (unanimity). The mechanism in question must therefore be corrected by the time the first enlargement takes place, at the latest.
4. Granting full-blown Community powers to the pillar of common foreign and security policy remains the prime objective of the European Parliament, which put forward the relevant proposals in its resolution of 22 November 1990.
5. The European Parliament insists on permanent and intensive information from the Council and Commission. It shall exercise its rights of control above all through questions, debates, resolutions and through its budgetary powers. Through its recommendations, it will play its part in shaping the European Community's common foreign policy.

Yours faithfully,

(sgd) Marcelino Oreja Aguirre

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