Assembly of Western European Union

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FORTIETH ORDINARY SESSION

(First Part)

Amendments to the Charter and Rules of Procedure of the Assembly in view of the creation of a status of associate member

REPORT

submitted on behalf of the Committee on Rules of Procedure and Privileges
by Lord Finsberg, Rapporteur

ASSEMBLY OF WESTERN EUROPEAN UNION
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1. Adopted unanimously by the committee.

2. *Members of the committee: Mr. Thompson* (Chairman); MM. *Amaral*, Ferrarini (Vice-Chairmen); Mrs. *Aguiar*, MM. Battistuzzi, Bolinaga, Mrs. Brasseur, MM. Couveinhes (Alternate: *Alloncle*), *Cuco*, Deniau (Alternate: *Briane*), Dicks, Lord Finsberg, MM. Hughes (Alternate: *Godman*), Junghanns, Lejeune, Mignon, *Ottenbourgh*, Sainz Garcia (Alternate: Mrs. *Sanchez de Miguel*), Scheer, von Schmude, Mrs. Soutendijk van Appeldoorn, Mr. Stoffelen, Mrs. Terborg, MM. Trabacchini, Van der Maelen, *Visibelli*.

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

Draft Decision

on the revision of the Charter and Rules of Procedure of the Assembly with a view to the creation of a status of associate member

The Assembly

DECIDES

I. To revise the Charter of the Assembly, as revised by Decision 11, as follows:

At the end of Article II, add a new paragraph *(c)* as follows:

"*(c)* The Assembly shall admit delegations of representatives and substitutes from the parliaments of each associate member state of WEU and grant them prerogatives appropriate to the participation of those states in the activities of WEU without voting rights in the Assembly."

II. To revise the Rules of Procedure, as revised by Decision 11, as follows:

1. In Rule 15, paragraph 3, delete "without voting rights".

2. In Rule 17:

(a) Paragraph 1: replace "These representatives" by "The members of these delegations".

(b) Paragraph 2 *(a)*: replace "representatives of associate member states" by "associate members of the Assembly".

(c) Paragraph 2 *(b)*: replace "representatives of associate member states" by "associate members of the Assembly".

(d) Delete *(d)*, *(e)*, *(f)* and *(g)*.

(e) Add a new paragraph *(d)* as follows:

"Associate members of the Assembly of WEU may request that a consultative vote be taken, enabling them to express their opinion on any text adopted by the Assembly. Such a vote shall be consultative, but never indicative. This request must be tabled by at least three associate members of the Assembly. In voting in committee, it will be sufficient for such request to be tabled by only one associate member of the Assembly. Voting by associate members will take place immediately after the result of voting in the Assembly or the committee is announced and will be held in accordance with the provisions of Rule 36.1, 2 and 3 of the Rules of Procedure."

(f) Former paragraph *(h)* becomes paragraph *(e)*.

3. In Rule 38, delete paragraph 4.

N.B. Rule 36 of the Rules of Procedure as amended by Decision 11 is Rule 35 of the Rules of Procedure in the 1991 version and Rule 38 is former Rule 37.

Explanatory Memorandum

(submitted by Lord Finsberg, Rapporteur)

I. General considerations

1. During the second part of the thirty-ninth ordinary session of the Assembly, the Committee on Rules of Procedure and Privileges tabled a draft decision proposing amendments to the Charter and Rules of Procedure of the Assembly, to take account of the creation by the Council of associate member status of WEU for three NATO member countries: Iceland, Norway and Turkey (Document 1390). Your Rapporteur, at the time of preparing the preliminary draft decision, drew upon Order 85 on the enlargement of WEU, adopted by the Standing Committee in Rome on 19th April 1993, which invited the Committee on Rules of Procedure and Privileges:

> "to examine the creation of a specific "associate member" status for representatives of associate member states which will give full participation and voting rights in committees and the right to participate in the plenary sessions of the Assembly with membership of delegations on the same basis as the present Council of Europe arrangements;"

2. A thorough study was made by the committee and the draft decision tabled complied with this brief by defining a status for those delegations that corresponded as closely as possible to that offered by the Council to government delegations of associate member countries, as defined by the Council in its Reply to Written Question 300. The Assembly adopted Decision 11 subject, however, to two amendments which destroyed its coherence by denying the parliamentary representatives of these countries voting rights in plenary session, and also, owing to the fact that paragraph II 3.2 *(e)* was not amended in committee, even within the limits the Committee on Rules of Procedure and Privileges had felt should be permitted.

3. The Assembly's rules were therefore amended by this decision but the new rules have not come into effect, since Decision 11 stipulated that this would not occur until the date on which the status of WEU associate members itself came into force. The Presidential Committee, which was instructed under Order 85 to co-ordinate the work of the various committees on matters relating to the enlargement of WEU, noting that the balance proposed by the Committee on Rules of Procedure and Privileges had been profoundly altered by the amendment adopted by the Assembly, instructed that committee to re-examine the question with respect to the rules as amended.

4. In point of fact the text of Decision 11, as adopted, presents a number of contradictions: it denies voting rights in plenary session to associate members of the WEU Assembly (Decision 11, paragraphs I.2 and II.2) but defines the manner in which they vote [II.3.2 *(e)*], excludes them from voting under certain circumstances [II.3.2 *(b)* and II.3.2 *(f)*] and does not comply with Order 85 which stipulated that the delegations of associate member countries had full participation and voting rights in committee [II.3.2 *(e)*]. Since Decision 11 does not grant associate members of the Assembly voting rights in plenary session, the draft decision as a whole submitted by the Committee on Rules of Procedure and Privileges needed to be revised, since it was based on the granting of voting rights restricted to certain questions. If those associate members can no longer participate in Assembly decisions there is no longer any point to this restriction.

5. The rôle of the Committee on Rules of Procedure and Privileges is obviously not to open a political debate. This debate took place when Order 85 was adopted. Rather it is to consider the will of the Assembly, as expressed through the adoption of this order and the two amendments to Decision 11, and to deduce the consequences for the Charter and Rules of Procedure of the Assembly such that these two texts conform to the same principle, are coherent and enable the Assembly to work effectively.

6. It would seem to your Rapporteur that the expressed will of the Assembly can be summarised as follows:

(a) To enable full participation by parliamentary delegations of associate member states in all the Assembly's work;

(b) To ensure that decisions reached by voting in plenary session are the prerogative only of representatives of member states of the organisation.

7. This will, thus expressed, is entirely consonant with the Council's policy as formulated in the reply to Written Question 300, since the associate member countries participate fully in WEU's intergovernmental activities but cannot prevent the formation of a consensus which is the Council's method of reaching a decision. It should be added that the substantive text proposed by the

Committee on Rules of Procedure and Privileges in December 1993 addressed the same concern, but distinguished between decisions concerning the functioning of WEU, in which associate members of the Assembly were not to have a part, and those relating to general policy, in which they were associated. Since the Assembly has rejected this distinction, there is a need to find another way of reconciling "full participation" in the work of the Assembly with non participation in decisions. This has been the substance of your Rapporteur's considerations and those of the members of the Committee on Rules of Procedure and Privileges.

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8. Since December 1993, new circumstances have arisen. They contribute to complicating further the factors with a bearing on the problem to be resolved. Indeed, according to the information available to your Rapporteur, a proposal for a further strengthening of the status of WEU associate members, by guaranteeing them greater participation, as "associate allies", in all WEU activities, including the work of the Assembly, was put to the Council in 1994. Moreover, at the ministerial meeting on 9th May 1994, the countries of the Forum of Consultation of WEU might be awarded the status of "associate partners" as distinct from that of "associate allies", thus obliging the Assembly to develop a new status for their parliamentary delegations. If the Assembly's rules do not grant any form of voting rights to the NATO member countries, there will be very little room for defining a suitable status for countries that are neither NATO nor European Union members but which already have permanent observer status and will be seeking, quite justifiably, for their enhanced status in the ministerial organs of WEU to be accompanied by enhancement of their status in the Assembly.

9. Finally, we are all aware that certain associate member countries have made known their extreme displeasure at the decision taken by the Assembly which did not, in their view, follow the guidance given by the governments when they established associate member status. Naturally the governments left the Assembly master of its own decisions in matters that concerned it. One wonders whether the Assembly genuinely wished to dissociate itself from the member governments by only granting associate members a status that falls far below that offered to them by the Council. Moreover it did not escape associate members' notice that granting voting rights in committee, had these been effective, which was not even the case, would have represented a purely formal concession since only voting rights in plenary session, or, in certain cases, in the Standing Committee, produce Assembly decisions, the adoption of texts in committee being no more than the expression of an opinion that is in no way binding on the Assembly.

10. The brief of the Committee on Rules of Procedure and Privileges is clearly not to propose that the Assembly repeal the decision taken by adopting the two amendments, which would withdraw voting rights in plenary session and in the Standing Committee from associate member delegations, and in point of fact also withdraw their voting rights in committee, but to look for a form of words that would achieve a better correspondence between the new rule and Order 85.

11. Your Rapporteur in drafting the present report is indebted to the committee for its very substantial contribution when it made a preliminary examination of the question on 7th March 1994. In particular he wishes to express his gratitude to a member of the committee, Mr. Van der Maelen, on whose in-depth research and written suggestions your Rapporteur has drawn extensively in developing the proposals contained in the present report.

II. Amendments to the rules of the Assembly[1]

12. The committee's proposal, which was not endorsed by the Assembly in December 1993, made the distinction, as did the Council in its reply to Written Question 300, between the Council's acting in a legal capacity, specifically in adopting its annual report, when only member countries take part in decisions and its acting as a political body, debating more general questions. In this instance, associate members participate in meetings, without, however, being able to prevent the formation of a consensus among member countries. The committee was proposing to grant voting rights in the Assembly to parliamentary delegations of associate member countries in all matters relating to the second circumstance, but not the first. This proposal was rejected by the Assembly.

13. Another way of giving effect to associate member country status which would approximate even more closely to Council practice would be to grant voting rights to associate member country delegations but without such voting rights being able to prevent texts being adopted by the Assembly. To achieve this, a separate, consultative vote by the delegations of these countries, subsequent to voting in the Assembly, might be held in cases where associate members wished to express

1. N.B. As the Rules of Procedure of the Assembly, as amended by Decision 11 have not yet come into effect, the present text refers either to the rules as they stood prior to Decision 11 taking effect or to the text of this decision. However the draft decision refers to the wording of the rules as amended by Decision 11.

disapproval of substantive texts adopted by the Assembly, as constituted under Article IX of the treaty. Such a vote would show whether the delegations of these countries approved an Assembly decision or not. This special vote would be in order when a certain number of members of these delegations requested it. In the contrary event, associate members of the Assembly would be deemed to have approved the substantive text adopted by the Assembly.

14. This procedure would have the advantage of enabling delegations of WEU associate member countries to participate fully in the work of the Assembly since, were it adopted, there would no longer be any need to distinguish between the Council and the Assembly acting in its legal or political capacity, but these delegations would have no part in decisions as is the case in the Council where governmental delegations of those countries are not at liberty to challenge the consensus.

15. Its implementation would require the following amendments to the wording of the rules as they stand since the adoption of Decision 11.

(a) In paragraph I.2 of Decision 11 referring to Article II *(c)* of the Charter of the Assembly replace "without voting rights in plenary sessions" by "without the right to participate in votes of the Assembly", which would enable associate members of the Assembly to participate in a consultative vote, that was not a vote of the Assembly, but the expression of an opinion which would be recorded in the minutes of committee meetings or Assembly sittings.

(b) In paragraph II.2 of Decision 11 referring to Rule 15.3 of the Rules of Procedure of the Assembly concerning the Standing Committee, delete "without voting rights". The expression "in accordance with the prerogatives deriving from their status" implies that they do not have the right to participate in votes of the Assembly. This means that representatives of associate member countries can request that a consultative vote be held in the Standing Committee in the same way as in plenary session. The result of such consultative voting would be recorded in the minutes of the meetings of the Standing Committee.

(c) In paragraphs II 3.2 *(a)* and *(b)* of Decision 11 replace "representatives of associate member states" by "associate members of the WEU Assembly" to indicate that the relevant rules applying to "representatives" do not concern WEU Assembly associate members, in accordance with the Assembly's decision not to grant them voting rights. In paragraph II 3.1, for the same reason, replace "These representatives" by "The members of these delegations".

(d) Delete paragraphs II 3.2. *(d), (e), (f)* and *(g)* of Decision 11 since these paragraphs were only meaningful in as much that associate members of the Assembly were at times called upon to participate in voting in the Assembly under the draft decision which the Assembly amended in December 1993.

(e) Add a new paragraph *(d)* to paragraph II 3.2 of Decision 11 as follows:

"Associate members of the Assembly of WEU may request that a consultative vote be taken, enabling them to express their opinion on any text adopted by the Assembly. This request must be tabled by at least three associate members of the Assembly. In voting in committee, it will be sufficient for such request to be tabled by only one associate member of the Assembly. Voting by associate members will take place immediately after the result of voting in the Assembly or the committee is announced and will be held in accordance with the provisions of Rule 35.1, 2 and 3 of the Rules of Procedure."

The requirement that three members table the request is based on two considerations: first, avoidance of repeated consultative voting which would unnecessarily slow down the business of the Assembly; second, to enable the smallest delegation, Iceland, if unanimous, to obtain a consultative vote.

It should be noted that the present provisions confer only consultative voting rights in committee on associate members of the Assembly under Rule 42.4 of the Rules of Procedure of the Assembly which states that the rules adopted by the Assembly relating to its voting procedures shall apply in committee. In point of fact the failure, when adopting Decision 11, to amend Rule 35 or Rule 42.4 had the effect of withdrawing associate members' voting rights in committee, even though it appears that the intention of those who drafted these amendments was to grant such rights, in conformity with Order 85.

(f) Delete paragraph II.5 of Decision 11 relating to Rule 37, which is now pointless.

16. The proposals submitted by your Rapporteur are, like Decision 11, not absolutely consistent with the terms of Order 85, in as much that associate members do not have genuine voting rights in committee but simply the right to express their opinion here by means of a special vote, the results of which would be recorded in the minutes of meetings. They are based on the principle that the rôle of the committees is to prepare substantive texts to be put to the vote in the Assembly, and to explain the reasons for them. It would therefore be somewhat undesirable for voting procedures in committee to differ substantially from those in the Assembly. If the Committee on Rules of Procedure and Privileges or the Assembly wished to grant associate members voting rights in committee they would need to follow through the consequences and amend Rules 42.4 or 35 of the Rules of Procedure.

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