

**COMMON FOREIGN AND SECURITY POLICY: CAN HISTORY BE  
OVERCOME?**

**Paper Prepared for ECSA Conference, Seattle,  
May 1997**

**Panel on 'The EU's Common Foreign and Security Policy  
and the European Security and Defence Identity (ESDI)**

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## Introduction

When in November 1993, the Treaty on European Union (TEU) entered into force, expectations with regard to Common Foreign and Security Policy (CFSP) were very high. Especially the extension of the scope of European foreign policy cooperation to all aspects of security, including defence was considered to be an important breakthrough and was expected to constitute a new step on the road towards a fully-fledged European foreign policy.

Four years later however, there is not much left of this euphoric mood. Results in the foreign policy area are considered to be unsatisfactory<sup>1</sup> and European citizens have not hidden their disappointment. Together with the lack of a social Europe, the EU's poor performance in the foreign policy area is one of the most criticised aspects of European integration. The incapacity of the Member States to deal with the crisis in the former Yugoslavia and more recently the slow reaction to the events in Albania have not gone down well with public opinion and are often quoted as illustrations that Europe is not more than a paper tiger, not able to take care of its own security.

It is therefore not surprising that CFSP is once again one of the central themes of the 1996-1997 Intergovernmental Conference (IGC). Although the problems surrounding the functioning of CFSP have much to do with the Member States' lack of political will to further cede sovereignty in the foreign policy area, the IGC primarily concentrates on the question of possible institutional improvements with regard to CFSP. The national representatives of the Reflection Group, charged by the European Council to prepare the IGC, set the tone by focusing the discussion on the question of how to 'provide CFSP with the means to function more effectively'.<sup>2</sup>

The following article will examine some of the principal organisational and institutional problems thwarting CFSP and look at how the IGC might address them. Four major themes have been selected for a more detailed analysis: the question of introducing Qualified Majority Voting (QMV); the issue of consistency among the pillars; the legitimacy of CFSP; and the relationship of the EU with the Western European Union (WEU).

## Unanimity versus Qualified Majority Voting

Throughout the history of European integration, foreign policy cooperation, going to the very core of the sovereignty of a nation, has always been a very slow and strenuous process. After the failure of the European Defence Community (EDC) in the 1950s and the Fouchet negotiations in the 1960s, it only

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<sup>1</sup>For a critical assessment of CFSP, see: *Intergovernmental Conference 1996. Commission Report for the Reflection Group* (Brussels-Luxembourg: European Commission, 1995), 56-68.

<sup>2</sup>1996 *Intergovernmental Conference (IGC '96). Reflection Group Report and Other References for Documentary Purposes* (Luxembourg: Office for Official Publications of the European Communities, 1996).

developed from 1970 onwards in the framework of European Political Cooperation (EPC). EPC developed outside the Community framework on a purely intergovernmental basis and it was only with the adoption of the Single European Act that it received a treaty basis.

From its inception, there have been two schools of thought with regard to the intergovernmental organisation of European foreign policy cooperation. For countries like France and the UK, former colonial powers with nuclear capacities and a seat in the UN Security Council, foreign policy is considered too sensitive to transfer full sovereignty to the European level. It is inconceivable that they would be outvoted by a majority of EU Member States in such a critical area as foreign policy and they plead to maintain unanimity. Others like Germany, Italy and the Benelux countries judge that the intergovernmental approach only constitutes an intermediary phase, and estimate that the only way to overcome the paralysis in CFSP is to move to decisionmaking by Qualified Majority Voting (QMV).

The question of introducing QMV was already seriously debated at the time of the 1991 Intergovernmental Conference, but the Treaty on European Union (TEU) maintained decisionmaking by unanimity as the general rule in the area of CFSP. A timid opening was made in Art. J.3 (2), TEU, providing for the possibility to use QMV when implementing joint actions. This option has however never been used.<sup>3</sup> On the contrary, time after time, the Member States were confronted with situations where due to the lack of unanimous agreement, they were in the impossibility to act.

Under pressure of an impatient public opinion who is increasingly frustrated with Europe's incapacity to perform, the question of QMV is once again on the agenda of the current IGC and has led to heated debates. Although at the time of the writing of this paper the negotiations are still going on, the Note of the Dutch Presidency on the state of affairs in the IGC (March 1997) gives already some indications of the options under discussion.<sup>4</sup>

In a specific article on decisionmaking in CFSP (article J.12), the Presidency Note makes a distinction between the strategic foreign policy decisions which would still be taken unanimously by the European Council and decisions taken in the framework of such common strategies like declarations, demarches, common positions and joint actions which would be taken by the Council by QMV. All decisions with military or defence implications would however continue to be taken by unanimity.

The Note also provides the possibility for a Member State to abstain in a vote without preventing the others from going ahead (positive abstention). This would imply that the country in question is not bound by the decision, but does not impede the others to act. If those abstaining represent more than one third of the weighted votes, the decision cannot be adopted.

Whether the solution proposed by the Dutch Presidency, if at all adopted, will make it easier for the Union to act, will very much depend on how the abovementioned provisions will be implemented. It remains that before adopting implementing measures, the European Council has to agree on a strategy

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<sup>3</sup>It concerns a special QMV whereby in addition to the 62 votes in favor, at least ten of the fifteen Member States have to agree.

<sup>4</sup>Presidency Note. Presidency Progress Report on the State of Play of the Conference. Brussels, 19 March 1997.

by unanimity. Also the Maastricht Treaty foresaw the possibility of the adoption of joint actions by a special QMV, but never made use of this option.

A new notion is that of positive abstention. So far the Union has little experience with this and it remains to be seen to which extent the Member States are willing to resort to it. It certainly has the potential of introducing an element of flexibility in CFSP, preventing deadlock in situations where one or more Member States are not willing to become involved. If a country for one or the other reason fiercely opposes action by the Union, it is however to be expected that it will continue to use its veto and prevent the others from moving ahead.

Positive abstention would give the Member States on a case-by-case basis the possibility not to participate in the implementation of certain foreign policy decisions, introducing as a matter of fact variable geometry into CFSP. It remains however that the abstaining country should not obstruct the implementation of the action in question (political solidarity). It would also be preferable that in such cases, the action would still be funded by the Community budget (financial solidarity) but it may be expected that for some Member States this will be unacceptable.

If positive abstention might further complicate the management of CFSP and is certainly not the *deus ex machina* for all its problems, it could nevertheless help to address some of the difficulties related to the diverging geographical and historical interests of the Member States. Especially in the light of the further enlargement of the EU, the notion might be an interesting one to start testing out.

### **Overcoming the Artificial Separation Between Economics and Politics**

One of the most important legacies of European Political Cooperation (EPC) still haunting CFSP is the continuing existence of two parallel channels for conducting the EU's external relations, one dealing with external economic relations, the other focusing on foreign policy matters. Although CFSP is fully part of the EU and the Treaty speaks about one single institutional framework,<sup>5</sup> the decisionmaking process and to some extent also the actors and their role continue to be different depending on whether it concerns decisions in the European Community framework (first pillar) or in the CFSP context (second pillar). The inclusion of the guiding principle of consistency in the Treaty on European Union,<sup>6</sup> has not proved sufficient to deal with some of the problems that continue to distress the Union as a result of overlap and the different decisionmaking procedures between the pillars.

Especially with regard to what Neuwahl has called organisational consistency, there continue to be important problems.<sup>7</sup> Difficulties start already at the lowest level of the working parties. The merger

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<sup>5</sup>Art.C, TEU.

<sup>6</sup>The principle of consistency is referred to in art. A, art. C and Title V, art.J.8 (2).

<sup>7</sup>Nanette Neuwahl, 'Foreign and Security Policy and the Implementation of the Requirement of "Consistency" under the Treaty on European Union', in: David O'Keeffe and Patrick M.Twomey, *Legal Issues of the Maastricht Treaty* (London: Chancery Law Publishing, 1994), 227-246, 236.

of the former EPC working parties and their equivalent Community counterparts as promoted by the Belgian Presidency (second half 1993) and implemented in February 1994, has failed.<sup>8</sup> The agenda of their meetings continues to separate CFSP and Community matters and depending on the topic being discussed, the so-called merged working parties are attended by different national representatives. This is not expected to change in the near future since most Member States also at the national level maintain a functional division of competencies in their ministries of foreign affairs. It would however be desirable that at least the country holding the Presidency would provide one single chair for the merged working parties. So far only the French Presidency (first half of 1994) has been doing so.

The problem of the different attendance of the working parties and the risk for contradictory policies is to some extent overcome by the presence of the Council General Secretariat. Merged working parties are attended both by representatives of the Secretariat's CFSP Unit as well as by officials in charge of external economic relations.<sup>9</sup> The Secretariat is also in charge of preparing a single report for Coreper on the different subjects (both economic and political) discussed in the merged working groups.

Since Maastricht, all decisions in the foreign policy area, before being adopted by the Council, do not only pass through the Political Committee (POCO)<sup>10</sup>, but are also filtered through COREPER II, the meeting of the Ambassadors of the Member States to the EU.<sup>11</sup> Since Coreper also deals with external economic relations and development policy, it disposes of a general overview of the Union's external relations and can therefore watch over the coherence of the EU's external relations. Coreper furthermore has the advantage that all its members are based in Brussels and meet on a weekly basis.

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<sup>8</sup>The merged working parties are: Latin America, ad hoc Working Party on the Middle East Process, Mashreq/Maghreb, Middle East/Gulf, OSCE, Central Europe, Southern Africa, Eastern Europe and Central Asia, ad hoc Working Party on former Yugoslavia, Southeast Europe. There continue to be a number of specific CFSP working parties: Africa, Consular Affairs, Drugs, Terrorism, Administrative Affairs, Protocol, Disarmament, United Nations, Security, Public International Law, Policy Planning, Nuclear Non-Proliferation, Non-Proliferation (Chemical and Biological), Arms Exports, Communications, Human Rights, Stability Pact. The working parties on Drugs and Terrorism also report to the K.4 Committee (third pillar).

<sup>9</sup>Since Maastricht, the former EPC Secretariat has been merged with the Council General Secretariat and has been transformed in the so-called CFSP unit. The CFSP unit, partly staffed with diplomats from the Member States, partly staffed with personnel of the Council Secretariat itself, is part of DG E (External Relations), which also has a department dealing with external economic relations (Community matters).

<sup>10</sup>The Political Committee is attended by the Political Directors of the Ministries for Foreign Affairs of the Member States as well as by the Director General of DGI A at the European Commission.

<sup>11</sup>In EPC, Coreper did not play a role. POCO passed its recommendations directly to the meeting of the ministers of foreign affairs.

The exact division of tasks among the Political Committee and Coreper was not settled by the Treaty on European Union, but was postponed until a later stage.<sup>12</sup> This led to an unclear situation and especially in the beginning, it introduced a degree of competition among the two bodies.<sup>13</sup>

In practice, the Political Committee is more concerned with the content of CFSP. It monitors the international situation and drafts common analyses, it prepares proposals for common positions and joint actions, delivers opinions to the Council on CFSP matters and monitors the implementation of agreed policies. The role of COREPER on the other hand is more technical and is to supervise the consistency with decisions taken in the Community framework as well as to focus on legal and financial questions related to CFSP.

The extended task of Coreper II in the foreign policy area has led to the creation of the new function of CFSP Counsellor in the Permanent Representations to the EU. Created by a decision of Coreper of July 1994, this horizontal CFSP working group whose members are based at the Permanent Representations of the Member States deals primarily with the legal, institutional, and financial aspects of CFSP, and co-ordinates the content of the agendas of Coreper and the Political Committee. To guarantee consistency, they attend all meetings of the Political Committee and those of COREPER dealing with CFSP matters. Normally there is also close contact between the CFSP counsellor and the European correspondent<sup>14</sup> in the national capital, although the relationship between the two players is not always free from competition.

The CFSP Counsellors have been particularly active as regards the implementation of CFSP. They have for example been playing an important role in the preparation and implementation of common positions imposing sanctions on third countries or in dealing with the problems related to the financing of joint actions.

The CFSP Counsellors generally do not have the detailed dossier knowledge of the desk officers of the national ministries of foreign affairs, but they know very well CFSP procedures. They furthermore have the advantage that they are based in Brussels and easily available for meetings with the Commission and the Council Secretariat. It has therefore more than once happened that in case of an emergency situation, they have been asked by the Council to draft at short notice a CFSP declaration or even a joint action.

The European Commission is one of the few bodies where the artificial distinction between external economic and external political relations has been lifted. In the first Santer Commission, competencies have been divided on a geographical basis, meaning that Directorates General (DGs) in

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<sup>12</sup>See 'Declaration (No.28) on practical arrangements in the field of the common foreign and security policy', TEU: 'The Conference agrees that the division of work between the Political Committee and the Committee of Permanent Representatives will be examined at a later stage...'

<sup>13</sup>Elfriede Regelsberger, 'Reforming CFSP - An Alibi Debate or More?', in Spyros A. Pappas and Sophie Vanhoonacker (Eds.), *The European Union's Common Foreign and Security Policy. The Challenges of the Future* (Maastricht: EIPA, 1996), 93-118, 98.

<sup>14</sup>The European Correspondents are based in the national ministries of foreign affairs and are in charge of preparing the meetings of the Political Committee.

charge of a particular region deal with all aspects of the relationship, both economic and political.<sup>15</sup> In order to co-ordinate action and to ensure consistency on horizontal questions, a working group chaired by President Santer has been set up. Once a month, it brings together the different external relations Commissioners as well as Yves-Thibault de Silguy, in charge of economic matters.<sup>16</sup> The fact that the personal relationships among the Commissioners are not always optimal, continues however to complicate matters.<sup>17</sup>

Although the Maastricht Treaty, through the involvement of Coreper in CFSP matters made an important contribution to guaranteeing consistency between developments in the Community and the foreign policy sphere, it has maintained the two parallel structures of the past. This continues to pose problems for an appropriate co-ordination and has often led to bureaucratic infighting.

Also for third countries the hybrid system of EU external relations continues to pose problems. Not only do they have difficulties in understanding the EU decisionmaking process, very often they do not know to whom they can address their questions. In some cases it is the Commission, for other issues it is the Presidency which is their main interlocutor. The fact that the latter rotates every six months further adds to the confusion.

France in the framework of the IGC has proposed to give Europe's foreign policy a face by nominating a so-called Mr or Mrs CFSP.<sup>18</sup> It is the question whether the addition of a new function to the plethora of actors will help to address the problem. At this moment it is far from certain that the Member States want to give this personality real authority. If it is not further clarified which role Mr(s) CFSP is expected to fulfil, it is to be feared that he or she will only add to the confusion.

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<sup>15</sup>Simon Nuttall, 'The European Commission's Internal Arrangements for Foreign Affairs and External Relations', *CFSP Forum*, No.2, 1995, 3-4; Bettina Döser, 'External Relations in the New Commission: The More, the Merrier?', *CFSP Forum*, No.1, 1995, 1.

<sup>16</sup>In addition there are monthly meetings among the different Director Generals.

<sup>17</sup>Sir Leon Brittan (UK) deals with external relations with North America, Australia, New Zealand, Japan, China, Korea, Hong Kong, Macao and Taiwan. He is also in charge of the common commercial policy and the relations with the OECD and WTO; Hans van den Broek (NL) is in charge of external relations with the countries of Central and Eastern Europe, the former Soviet Union, Mongolia, Turkey, Cyprus and Malta and other European countries. He is also in charge of CFSP and human rights (in agreement with the President); Manuel Marin (E) deals with external relations with the southern Mediterranean countries, the Middle East, Latin America and Asia (except for those countries falling under the responsibility of Sir Leon Brittan), including development aid; Joao de Deus Pinheiro (P) deals with external relations with African, Caribbean and Pacific countries and South Africa, including development aid and the Lomé Convention; Emma Bonino (I) is in charge of the European Community Humanitarian Office (ECHO)(humanitarian aid). Jacques Santer (L)(President) has kept the overall responsibility over CFSP and human rights. Taken from: *Agence Europe*, No.1921, 27 January 1995.

<sup>18</sup>According to the Dutch Presidency Note (art. J.14), this person would have the level of Secretary General, be based at the Secretariat General of the Council and be nominated for a period of five years.

## CFSP's Legitimacy

The issue of legitimacy is a general problem in the EU, but it is particularly acute in the second and the third pillar of the Treaty on European Union. Legitimacy raises both the question as to how CFSP is perceived by the general public as well as the problem of parliamentary control.

As concerns the first, it can generally be said that public opinion is very disappointed with CFSP's performance so far and that following the debacle in the former Yugoslavia, confidence in Europe's capability to take care of its security interests is low. This does however not mean that there is no support for a more muscular European foreign policy. On the contrary, most Europeans are very conscious that a Europe speaking with one voice can have much more impact on the international scene than when their country is acting on its own. According to polls by Eurobarometer,<sup>19</sup> 73% of the European citizens support an EU wide defence and military policy<sup>20</sup> and 69% are in favour of a common foreign policy<sup>21</sup>. The recent experience in Albania seems however to suggest that there continues to be an important gap between expectations and the EU's capability to act.

As concerns the democratic control of Europe's foreign policy, it has to be said that both the role of the national parliaments as well as that of the European Parliament (EP) is rather limited. In the past, national parliaments have generally paid little notice to EPC and CFSP. Due to an increased attention for CFSP by the press and public opinion, this is slightly changing. Once per semester, the parliament of the country holding the Presidency is now inviting the chair(wo)men of the foreign affairs committees of the national parliaments to discuss current CFSP matters.

The role of the European Parliament (EP) in the CFSP decisionmaking process is primarily advisory. The Treaty on European Union stipulates that the EP shall be consulted on the 'main aspects and basic choices' of CFSP by the country holding the Presidency. The EP from its side can try to influence foreign policy through its questions and recommendations.<sup>22</sup>

In practice, the EP has traditionally been kept on the sidelines of CFSP and very much depends on the goodwill of the country holding the Presidency for its information. The majority of the Member States are of the opinion that foreign policy matters are too sensitive to be shared with parliamentarians and they use the argument that the EP should not have more influence on CFSP than national parliaments have on national foreign policy. So far the treaty's obligation for the Presidency to consult the EP on basic choices in foreign policy has remained dead letter.

The EP and its Committee on Foreign Affairs, Security and Defence Policy are not acquiescing in this limited role and they have not hesitated to exploit as much as possible their limited powers under

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<sup>19</sup> *Eurobarometer. Public Opinion in the European Union*. Report Number 44 (Brussels: European Commission, April 1996), 42-43.

<sup>20</sup> Considerably lower than average scores were recorded in Finland (40%), Sweden (41%), Ireland (48%), and Denmark (56%).

<sup>21</sup> Considerably lower than average scores were recorded in Sweden (48%), Finland (55%), Ireland (56%) and the United Kingdom (58%).

<sup>22</sup> See article J.7, TEU.



the Treaty. They have herein been helped by the newly created possibility in the TEU to finance CFSP actions through the Community budget.

According to article J.11 (2), operational expenses related to CFSP decisions can either be charged to the Community budget, or to those of the Member States.<sup>23</sup> In case of financing through the Community budget, which has represented the majority of the cases since Maastricht, the EC budgetary procedures have to be applied.<sup>24</sup> Since CFSP expenditures fall under the so-called non-compulsory expenditures,<sup>25</sup> the EP has the last word and can express its veto.<sup>26</sup>

The reasoning followed by the EP is that since it is involved in the approving of the financing of CFSP, it should also receive a say in determining the substance of the policy. The EP has therefore been asking that it be consulted on draft decisions for joint actions before they are adopted by the Council and not afterwards when the EP is asked to approve the funding.<sup>27</sup> Although the EP can always use its veto power, this is an instrument which is generally considered to be too drastic and damaging for the EP's reputation.

The EP has therefore proposed to conclude an interinstitutional agreement on this question, enabling the parliament to participate in an ad hoc decisionmaking procedure of the Council with regard to new or envisaged CFSP actions.<sup>28</sup> Although the Council was initially extremely reticent to make concessions in this area, it has now accepted to start discussions. Internally the EP will have to clarify the division of tasks between the Committee on Budgets and the Committee on Foreign Affairs, Security and Defence Policy. If the EP wants to respect the deadline of three weeks to give its opinion on CFSP expenditures, cooperation and co-ordination among both committees will have to be extremely well organised.

As concerns the negotiations in the IGC, it seems that the EP and its Committee on Foreign Affairs, Security and Defence Policy will have to live with the *status quo*. Despite the EP's demands to guarantee a more effective democratic control of the EU's foreign policy,<sup>29</sup> the Dutch Presidency Note

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<sup>23</sup>In the Dutch Presidency Note of March 1997, the financing of operational expenditure through the EC budget becomes the general rule, except for expenditure with military or defense implications and in cases where the Council by unanimity decides otherwise (see art. J.16 (former J.11)).

<sup>24</sup>Art. 203, TEC.

<sup>25</sup>The British delegation at the IGC proposes to change this and to make CFSP expenditures compulsory expenditures. The purpose of this proposal is to reduce the role of the EP in CFSP matters.

<sup>26</sup>See Thomas Hagleitner, 'Financing the Common Foreign and Security Policy (CFSP) - A Step Towards Communautarization or Institutional Deadlock?', *CFSP Forum*, Vol.2, 1995, 6-7.

<sup>27</sup>See f.e. 'Opinion of the Committee on Foreign Affairs, Security and Defense Policy for the Committee on Budgets. Draftsman: Mr McMillan-Scott', 4 October 1994.

<sup>28</sup>See 'Report on the Financing of the CFSP. Committee on Budgets. Rapporteur: Mr Frederik Willockx', 18 October 1994.

<sup>29</sup>See for example: 'Opinion of the Committee on Foreign Affairs, Security and Defense Policy for the Committee on Institutional Affairs on the operation of the Treaty on European Union with a view to the Intergovernmental Conference in 1996.' Draftsman: Mr Enrique Baron Crespo, 21 February 1995; 'Report on progress made in implementing the common foreign and security policy (November 1993-

of March 1997 does not include any amendments as concerns the role of the EP.<sup>30</sup> Since the EP is not a direct participant in the Intergovernmental Conference and does not ratify the outcome of the negotiations, it is in a rather weak position to exert pressure.

### **Security and Defence: Relations with the WEU**

The question which undoubtedly continues to be one of the most sensitive in the European foreign policy debate is whether and how to extend cooperation to the defence area. While during the cold war period, the EC was not very motivated to develop its own defence capabilities as it was all too conscious of the predominant role of NATO and the US, the fall of the Berlin wall placed the question of a European security identity again on the agenda.

In Maastricht, the EC Member States agreed that CFSP should have the possibility to discuss all aspects of security including defence (Art. J.4 (1)). The negotiations proved to be extremely difficult. In order to reassure a neutral Ireland and a reticent Denmark, it was agreed in article J.4 (2) that the implementation of EU defence decisions would be left to the Western European Union (WEU), a Western European security organisation of which these two countries were not a member.<sup>31</sup>

Also the so-called atlanticist countries like the UK, Portugal and The Netherlands supported this solution. They considered that the WEU, much more than the EU, was in a position to develop close relations with the Atlantic Alliance which for them continued to be the centrepiece of European defence. Furthermore, by giving associate membership to European NATO countries like Turkey, Norway and Iceland who were not members of the EU, the WEU could fulfil their preferred solution of developing the European pillar of NATO, rather than going for an independent European security identity.

The possibility in article J.4 (2) for the EU to ask the WEU to implement decisions with defence implications has proved difficult to implement and has raised a number of problems.

First of all there is the question of the EU-WEU relationship. While since Maastricht, NATO and the WEU have made some substantial progress in developing their cooperation,<sup>32</sup> culminating in the

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December 1994) of the Committee on Foreign Affairs, Security and Defence Policy.' Rapporteur: Mr Abel Matutes, 24 April 1995.

<sup>30</sup>Article J.10 (former J.7) in: 'Presidency Note. Presidency Progress Report on the State of Play of the Conference.' Brussels, 19 March 1997, 40.

<sup>31</sup>After Maastricht, Denmark and Ireland obtained observer status in the WEU. Following the fourth enlargement of the EU, also Austria, Finland and Sweden became observers.

<sup>32</sup>In May 1992, the WEU Council and the North Atlantic Council met formally to discuss the strengthening of practical cooperation and to establish closer working ties. In June 1993, both organizations agreed to the combined operation Sharp Guard, monitoring the enforcement of the embargo against the former Yugoslavia in the Adriatic. See Włodzimierz Aniol, *The WEU's Role in Crisis Prevention and Management* (The Hague: Netherlands Institute of International Relations, January 1997), 11.

agreement on the implementation of the Combined Joint Task Forces (CJTF) concept in Berlin (June 1996),<sup>33</sup> relations between the EU and the WEU are only developing slowly.

Although the WEU General Secretariat has moved to Brussels since January 1993, the recommendations for a closer working relationship as mentioned in the Declaration on the WEU annexed to the Treaty, have only been partially implemented.<sup>34</sup> A concrete achievement is that since the autumn of 1994, an exchange of documents and information between the WEU General Secretariat on the one hand and the Council Secretariat and the European Commission (DG IA) on the other hand is gradually getting under way. There is also an agreement as to which working group or other meetings, representatives of these respective bodies can attend.

Since July 1994, the WEU Presidency has been reduced to six months but the sequence of the EU and WEU Presidencies continues to differ.<sup>35</sup> Cooperation among the two Presidencies depends entirely on the initiative of the countries in question. An example of good cooperation is the Dutch EU and the French WEU Presidency in the first half of 1997. Both countries agreed to make closer cooperation between the EU and the WEU a priority of their respective Presidencies and they have organised a series of joint meetings to discuss possible improvements..

On the question of the synchronisation of dates and venues of EU-WEU meetings, no real progress has been made so far. Cooperation between the institutions of the two bodies is not easy. The EU and the WEU are entirely different organisations, with their own culture and working methods, a different history and only a small area of overlapping responsibilities. A long way still has to be gone before one can really speak about a close relationship between the two bodies.

A second important question to be looked at if examining the possible role of the WEU in implementing EU defence decisions, is the question of its operational capabilities. An important catalyst for the WEU to develop these capabilities has been the decision by the WEU Member States, meeting in the German locality of Petersberg in June 1992, to add new tasks of conflict prevention and crisis management to the traditional assignment of territorial defence of the WEU. What would become known as the Petersberg tasks included the three main categories of humanitarian and rescue tasks; peacekeeping tasks; and tasks for combat forces in crisis management, including peacemaking.<sup>36</sup> If this extension of tasks certainly made the WEU more relevant to address the type of security challenges

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<sup>33</sup>'Ministerial Meeting of the North Atlantic Council in Berlin, 3 June 1996. Final Communiqué.'

<sup>34</sup>'Declaration (No.30) on Western European Union', TEU. These recommendations were repeated by the Brussels EU Summit of 29 October 1993 and by the WEU Summit of 22 November 1993.

<sup>35</sup>Sequence of the WEU Presidency: United Kingdom, Belgium (1996); France, Germany (1997); Greece, Italy (1998); Luxembourg, The Netherlands (1999); Portugal, Spain (2000). Sequence of the EU Presidency: Italy, Ireland (1996); The Netherlands, Luxembourg (1997); United Kingdom, Austria (1998); Germany, Finland (1999); Portugal, France (2000). In the past the EU-WEU Spanish Presidencies of the second half of 1995 coincided. In the future, the Portuguese (first half of 2000) and the Greek (first half of 2003) EU-WEU Presidencies will coincide.

<sup>36</sup>'Council of Ministers. Petersberg Declaration. Bonn, 19 June 1992', in: Arie Bloed and Ramses A. Wessel (Eds.), *The Changing Functions of the Western European Union (WEU). Introduction and Basic Documents* (Dordrecht: Martinus Nijhoff Publishers, 1994), 137-146.

Europe was expected to face in the post-cold war period, it was also clear that in order to be able to fulfil its tasks it had to considerably strengthen its operational capabilities.

Important achievements in this respect have been the establishment of a planning cell,<sup>37</sup> the creation of a satellite centre in Torrejon, Spain (April 1993) and the launching of a situation centre in charge of monitoring and controlling the situation in crisis areas (December 1995).<sup>38</sup>

A list of forces which can be allocated to WEU operations in case of crises, also known as FAWEU (Forces Answerable to the WEU) has in the meantime been established and includes both national and multinational forces such as the Eurocorps, EUROFOR, EUROMARFOR, the Anglo-Dutch Amphibious Force, the Multinational Division Central,<sup>39</sup> and parts of the first German-Dutch Army Corps.<sup>40</sup> The agreement on the CJTF concept through which the WEU should be able to use Alliance assets and capabilities for European-led operations in the framework of the Petersberg tasks should further increase WEU's possibilities for intervention.

Despite the important developments in the WEU's internal organisation and the progress in the development of its operational capabilities, WEU interventions have so far been rather limited. Besides the operation Sharp Guard with NATO in the Adriatic,<sup>41</sup> there was also the police and customs operation on the Danube supporting Bulgaria, Hungary and Rumania in the implementation of UN sanctions against Serbia and Montenegro, and the police operation in Mostar (July 1994-July 1996). The task of the WEU police detachment in Mostar, consisting of about 180 police officers of different WEU Member States<sup>42</sup> and WEU Observers<sup>43</sup>, was to help to establish a unified police force composed both of Muslims and Croats. Although the WEU fulfilled this mission at the request of the EU, it was in the

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<sup>37</sup>The role of the planning cell was to prepare contingency plans for the employment of forces under WEU auspices; to prepare recommendations for the necessary command, control and communication arrangements; to keep an updated list of units and combination of units which might be allocated to the WEU for specific operations. The planning cell has been fully operational since 1994. Włodzimierz Aniol, op.cit., 20.

<sup>38</sup>The situation center became operational at the end of June 1996. See Włodzimierz Aniol, op.cit., 21.

<sup>39</sup>Involves Belgian, German, Dutch and British forces.

<sup>40</sup>See Peter Van Ham, 'The EU and WEU: From Cooperation to Common Defence?', in: Geoffrey Edwards and Alfred Pijpers, *The Politics of European Treaty Reform. The 1996 Intergovernmental Conference and Beyond* (London and Washington: Pinter, 1997), 306-325, 316-317.

<sup>41</sup>Initially, in July 1992, both NATO and the WEU had sent naval forces to the Adriatic to monitor observance of the UN embargo against Serbia and Montenegro. The fact that there was coordination between the two Western naval forces was more related to the fortunate coincidence that both the WEU as well as the NATO commanders were of Italian nationality than to the result of deliberate agreement. It was not until a joint session of the Councils of NATO and the WEU that the decision was taken on a combined operation including a single command. See 'An Operational Organisation for WEU: Naval Cooperation - Part One: Adriatic Operations'. Report Submitted on Behalf of the Defence Committee by Mr Marten and Sir Keith Speed, Joint Rapporteurs (Paris: Assembly of the Western European Union, November 1993), 5.

<sup>42</sup>All full WEU members with the exception of Belgium have participated in the police force.

<sup>43</sup>Both Austria, Finland and Sweden have participated in the police force.

strict sense of the term not a real article J.4 (2) case as at the moment of the demand the TEU had not entered into force yet<sup>44</sup> and since it concerned a purely civilian mission.<sup>45</sup>

The first real article J.4 (2) presented itself with the crisis in the Great Lakes Region in October-November 1996. The EU asked the WEU for assistance with the delivery of EU humanitarian aid.<sup>46</sup> The WEU Council, meeting under the Belgian Presidency in Ostend (B) on 19 November, asked the Permanent Council to instruct the Planning Cell, the Situation Centre, the Satellite Centre and the Politico-Military Group to study possibilities for such assistance.<sup>47</sup> WEU Member States could however not come to a consensus how to concretely implement the EU request and the result was that no WEU action was undertaken.

Also in the crisis in Albania, the WEU has been notoriously absent. If it is true that from the British side there was little enthusiasm for an active EU-WEU role, it is interesting to note that France, traditionally one of the most staunch supporters of the WEU and at the time of the crisis holding the Presidency of the WEU, did not even propose a WEU intervention. Another opportunity for restoring the dwindling reputation of the WEU was once again missed.

Seen the current state of affairs, it is not surprising that for the time being the earlier idea of an immediate merger between the EU and WEU is not on the agenda of the IGC. As the memberships of the EU and the WEU continue to differ, it is unthinkable at this moment that the mutual defence clause of article 5 of the WEU Treaty would be inserted into the TEU. For the Petersberg tasks, this is different since also the neutral countries can participate in their implementation.

As concerns the future of the WEU-EU relationship itself, two different views seem to stand out.<sup>48</sup> On the one hand there are those like the United Kingdom, who plead for a strengthened partnership between the two bodies, while the WEU would remain fully autonomous. On the other hand there are those who want rapprochement between the two bodies, with full integration as the final objective. While for some countries this is only a long-term objective, for France and Germany, supported by the Belgium, Italy and Spain, this full integration should already take place in the short or medium term. They propose to follow the example of EMU, and to adopt a concrete timetable planning an integration in stages.<sup>49</sup>

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<sup>44</sup> The WEU was asked to take part in the planning of the reorganisation of the civilian administration of Mostar on 4 October 1993.

<sup>45</sup> On the role of the WEU in Mostar, see: Martine Fouwels, 'The Role of the Western European Union in the Administration of Mostar'. Paper (Bruges: College of Europe, 1996).

<sup>46</sup> The Development Council of 22 November 1996 adopted a decision in which it called on the WEU 'to urgently examine the way in which it can contribute, in what concerns it, to the maximum use of the operational means available' in order to assist the return of refugees in the Great Lakes Region. See *Agence Europe*, 23 November 1996.

<sup>47</sup> 'Ministerial Declaration on the Situation in the Great Lake Region', WEU Council of Ministers, Ostend, 19 November 1996.

<sup>48</sup> See 'WEU Contribution to the European Union Intergovernmental Conference of 1996', WEU Council of Ministers, Madrid, 14 November 1996.

<sup>49</sup> For the text of the proposal, see *Agence Europe*, 24-25 March 1997.

For many Member States, it is still considered premature to pin themselves down to a fixed calendar for WEU integration into the EU. The draft proposal of the Dutch Presidency limits itself to the objective of 'gradual integration of the WEU into the Union', without further specification.<sup>50</sup>

Although the Treaty on European Union (J.4(6)) explicitly foresees the revision of art. J.4, it seems that in Amsterdam no spectacular amendments are to be expected. The formulation of art. J.4(1) about 'the eventual framing of a common defence policy, which might in time lead to a common defence' might become more firm,<sup>51</sup> and the Petersberg tasks will probably be included into the TEU. Anyway, whether after Amsterdam, CFSP will finally be able to get on track will much less depend on any further treaty amendments than on whether the Member States will finally have the political will to really start talking with one voice.

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<sup>50</sup>Presidency Note, art. J.6 (former J.4).

<sup>51</sup>The text proposed by the Dutch Presidency Note is: 'The common foreign and security policy shall include all questions relating to the security of the Union, including the progressive framing of a common defence policy in the perspective of a common defence.'

## Conclusion

None of the challenges identified by the current paper, going from the problems related to decisionmaking by unanimity, the artificial division between external economic and political relations, the lack of democratic legitimacy, or the absence of a European security and defence capacity, are really new. On the contrary, not only have all these problems already been discussed at the occasion of the 1991 Intergovernmental Conference, it is no exaggeration to say that they have been plaguing European foreign policy cooperation for most of its history.

Although the Treaty on European Union introduced a number of changes of which the most important was the possibility for the EU to discuss defence matters, Common Foreign and Security Policy has not been able to realise the high expectations its new name had raised. This is not really surprising. As had been the case before, the Member States in Maastricht did not come to an agreement on which type of foreign policy cooperation they ultimately wanted to realise.

For the different partners the answer continues to be divergent, as is their answer with regard to the future shape of the EU itself. While for some, European foreign policy cooperation is always to remain intergovernmental, others have made it clear that they want to move in the direction of a fully-fledged European policy. Trying to answer the question which form European foreign policy should take, is trying to define the ultimate shape of the European Union itself. Knowing that there exists no common view, the Member States prefer to leave the question open, creating the false hope that they might settle this at a later stage.

It is certainly an illusion to think that the forthcoming European Council of Amsterdam will come with clear-cut answers or shocking solutions. The Dutch Presidency Note of March 1997 continues on the cautious track of its predecessors, making small recommendations for change. If one can argue that this is the only possible way to make CFSP progress, it might perhaps not be apt to respond to the rather urgent character the development of a European foreign policy has received since the end of the cold war.

Just maintaining the *status quo* might not be sufficient at a time when new security challenges are facing the European Union. Although the crises in the former Yugoslavia and Albania cannot be compared to the former communist threat, Western Europe cannot just simply ignore them. Exactly because they are less of a menace than the former Soviet Union, it cannot be expected that the United States will have the same interest in addressing them.

If the European Union in the near future is going to enlarge and include Cyprus or Central European countries with minority and border problems, it is in its absolute interest to have developed a foreign policy with muscles. If not, Germany which would be most affected by a situation of instability in Central Europe might be tempted to pursue national solutions.

There is more than one compelling reason why the EU Member States should further strengthen the EU's foreign policy capacities. The alternatives of a renationalization of foreign and security policies or a return to a situation of total dependence on an external partner are far from appealing. It remains to

be seen whether the EU's political leaders in Amsterdam will be able to think in terms of long-term interests and to elevate Europe's economic success to the political level. They should not forget that once they have reached an agreement, ratification by national parliaments and referenda follows. If the results of the IGC are unsatisfactory, the verdict of public opinion can be expected to be harsh.