

## WEU Contribution to the European Union Intergovernmental Conference of 1996 (Madrid, 14 November 1995)

**Caption:** The Council of Ministers of Western European Union (WEU), meeting in Madrid on 14 November 1995, contributes to the work of the 1996 Intergovernmental Conference (IGC) on the revision of the Treaty on European Union. The document particularly analyses WEU's relationship with the European Union and the Atlantic Alliance and puts forward proposals for the future development of the European Security and Defence Identity (ESDI).

**Source:** Western European Union. WEU Contribution to the European Union Intergovernmental Conference of 1996, WEU Council of Ministers. Madrid, 14 November 1995. Brussels: Press and Information Service, 1995. 36 p. p. 1-7; 17-36.

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**Publication date:** 18/12/2013

## WEU contribution to the European Union Intergovernmental Conference of 1996

### Introduction

1. In the “Declaration on the Role of the Western European Union and its Relations with the European Union and with the Atlantic Alliance” of 10 December 1991, WEU Member States agreed “on the need to develop a genuine European security and defence identity and a greater European responsibility on defence matters”. The Declaration likewise indicates that “this identity will be pursued through a gradual process involving successive phases”.
2. Consistent with the principle of gradual development, the WEU Declaration, in paragraph 8, refers to the possibility of reviewing in 1996, in accordance with Article J.4(6) of the Treaty on European Union (TEU), the Treaty’s provisions on the CFSP, and at the same time establishes that “WEU will re-examine the present provisions in 1996”.
3. The procedure defined in Article N(2) of the TEU for the examination of those provisions of the Treaty for which revision is provided, includes convening an Intergovernmental Conference in 1996. Consequently, it falls to the said Conference to also review the CFSP provisions of Art. J.4 with a view to furthering the objectives set out in Article B of the TEU and, in particular, “the implementation of a common foreign and security policy including the eventual framing of a common defence policy, which might in time lead to a common defence”.
4. WEU has decided to make its own contribution to the work of the 1996 Conference in aspects that affect the Organization. Paragraph 16 of the Declaration of the Noordwijk Council of Ministers of 14 November 1994 states that, “In the light of the review of Article J.4 of the Treaty on European Union that will take place during the Intergovernmental Conference of 1996, Ministers decide that WEU should make a timely contribution to the work of the Conference on the basis of its own review of the provisions of the Declaration on the role of WEU and its relations with the EU and with the Atlantic Alliance of December 1991”.
5. The Declaration of the Lisbon Council of Ministers of 15 May 1995, after recalling this decision, indicates in paragraph 26 that “Ministers tasked the Permanent Council to present a report at their next meeting in November in Madrid. In this respect, they welcomed the intention of the incoming Spanish Presidency to present a reflection document on the WEU contribution to the IGC to serve as the basis of the Permanent Council’s report”. The Spanish Presidency presented a first version of the present document to the Permanent Council at the beginning of July 1995.
6. Paragraph 8 of the WEU Maastricht Declaration of December 1991 states that the re-examination of its provisions “will take account of the progress and experience acquired and will extend to relations between WEU and the Atlantic Alliance”. This specific reference to the Alliance is consistent with the definition of the role of WEU as “the defence component of the European Union and as a means to strengthen the European pillar of the Atlantic Alliance”.
7. As WEU is an integral part of the process of the development of the Union, it is natural that the WEU contribution to the IGC should take account of the EU’s wider security interests as defined within the Common Foreign and Security Policy. These interests include the maintenance of a strong transatlantic link, the extension of security and stability to the countries of Central and Eastern Europe and the consolidation of the reform process in Russia. These interests will therefore have to be fully taken into account when the IGC considers the institutional arrangements for European defence cooperation. The preamble to the Treaty on European Union also gives an indication of the considerations that should inform this review. It makes clear that the aim of the implementation of a Common Foreign and Security Policy, including the eventual framing of the common defence policy which might in time lead to a common defence, is “to promote peace, security and progress in Europe and in the world.”
8. In addition, the institutional arrangements for defence cooperation in the next phase of European

development should be consonant with the form such cooperation is likely to take in future and with an appreciation of what European countries will do together in this field. In this context, account will need to be taken of the prospects for WEU's operational development and the relationship with NATO.

9. Against this background, the present document includes both an evaluation of progress made regarding the three aspects of the Declaration: WEU's relations with the EU, WEU's relations with the Atlantic Alliance and the operational role of WEU, and an analysis in the form of options of the future framework of European security and defence. While the examination of these three elements is done in separate sections of this paper, obviously all the aspects of the Declaration are closely connected with each other. In particular, WEU/EU and WEU/NATO relations are complementary and mutually reinforcing, and their interrelationship will be fundamental for the decisions to be taken at the IGC.

10. Stemming from this assumption, the first part of the contribution is devoted to an assessment of the progress achieved to date in implementing the provisions of the Declaration. To this end, the development of relations between the EU and WEU, since the entry into force of the Maastricht Treaty, is analysed firstly, assessing the results achieved and identifying the shortcomings encountered. Secondly, WEU's relations with NATO are reviewed, with a similar assessment. And, thirdly, the progress achieved and the problems encountered in developing the operational role of WEU are examined.

11. In the light of this critical analysis, the second part of the WEU contribution describes and analyses some proposals for the future development of the European Security and Defence Identity with a view to furthering the objectives of the Treaty on European Union, consistent with the Union's security interests and taking into account other defence-related considerations outlined above. Since this exercise is a contribution to the IGC's review process contemplated in the Maastricht Treaty, these proposals address the question of the institutional relationship between the European Union and WEU, while taking due account of the Atlantic dimension and the operational aspects.

12. Any option selected by WEU for reviewing the institutional framework of WEU-EU relations would naturally have consequences on WEU's other dimensions, both regarding its relations with the Atlantic Alliance and its operational role. These consequences are taken into account as each option is examined.

13. As a suitable way of approaching the internal debate on WEU's contribution to the IGC, the present document contains a number of options. WEU is prepared fully to contribute to the IGC as required with regard to the security and defence aspects and has agreed to continue to follow this matter closely.

## **I. — Evolution of the European security and defence identity since Maastricht.**

### **A) WEU's relations with the European Union.**

14. As stated in the WEU Declaration of 10 December 1991, the objective of these relations is "to build up WEU in stages as the defence component of the European Union". The Treaty on European Union, after declaring that the CFSP "shall include all questions related to the security of the Union, including the eventual framing of a common defence policy, which might in time lead to a common defence" (Article J.4(1)), states in Article J.4(2) that WEU "is an integral part of the development of the Union" and that the Union requests WEU "to elaborate and implement decisions and actions of the Union which have defence implications". To this end, this article also establishes that "the Council shall, in agreement with the institutions of WEU, adopt the necessary practical arrangements".

15. Recalling these provisions of the TEU and with the same objective, the December 1991 Declaration states in paragraph 3 that "WEU is prepared, at the request of the European Union, to elaborate and implement decisions and actions of the Union which have defence implications".

16. In order to carry out this task, the WEU Declaration proposes to develop "a close working relationship with the Union" and, to this end, announces that it will take the following practical measures, in agreement with the competent EU bodies:

“— as appropriate, synchronization of the dates and venues of meetings and harmonization of working methods;

— establishment of close cooperation between the Council and the Secretariat-General of WEU on the one hand, and the Council of the Union and General Secretariat of the Council on the other;

— consideration of the harmonization of the sequence and duration of the respective Presidencies;

— arranging for appropriate modalities so as to ensure that the Commission of the European Communities is regularly informed and, as appropriate, consulted on WEU activities in accordance with the role of the Commission in the common foreign and security policy as defined in the Treaty on European Union;

— encouragement of closer cooperation between the Parliamentary Assembly of WEU and the European Parliament.”

17. Furthermore, WEU Member States adopted also at Maastricht an additional declaration (second part of Declaration 30 annexed to the Final Act) in which:

“States which are members of the European Union are invited to accede to WEU on conditions to be agreed in accordance with Article XI of the modified Brussels Treaty, or to become Observers if they so wish. Simultaneously, other European Member States of NATO are invited to become associate members of WEU in a way which will give them the possibility of participating fully in the activities of WEU”.

18. An evaluation of the implementation of the Maastricht provisions to date reveals important advances as well as some shortcomings:

— Following decisions adopted by the European Council on 29 October 1993 and by the WEU Council of Ministers on 22 November of the same year, it may be affirmed that, in general terms, the implementation of the provisions for the establishment of a cooperation between WEU and EU Councils and Secretariats, which began in autumn 1994, is making progress. The same applies to the establishment of modalities for information and consultation between the EC Commission and WEU and to the harmonization of the duration of the respective Presidencies as of 1 July 1994.

— The invitation to participate in WEU has been accepted by all the countries of the Union which were not yet WEU members. However, only Greece has acceded as full member. Denmark and Ireland (1992) and the new Union members Austria, Finland and Sweden (1995), have become Observers. The flexibility allowed by these different statuses of participation (together with those of WEU associate members and associate partners) enhances WEU’s ability to bring together the ideas, efforts and resources of European States for the sake of stability and security in Europe. On the other hand, differences regarding status increase the asymmetry between both Organizations, thereby making the full development of WEU as the defence component of the Union more complex, as two partially different groups of countries participate in the decision-making process regarding EU decisions and actions to be elaborated and implemented by WEU.

— Agreement has not yet been reached on synchronization of the dates of meetings and harmonization of

working methods, nor has the issue of harmonization of the sequence of respective Presidencies been settled. Furthermore, closer cooperation between the Parliamentary Assembly of WEU and the European Parliament has not been promoted.

19. Nevertheless, development of the measures specified in Maastricht is still under way. Possible solutions to the above-mentioned shortcomings have been under discussion also in the EU on the basis of the document on “Relations between the European Union and WEU” agreed in May 1995 by the CFSP Security Working Group and noted thereafter by the Political Committee. This document, which has been forwarded to WEU, contains some proposals:

— to promote WEU’s role in the elaboration of a common European security and defence policy, acting as a forum for analysis of security issues which have defence implications (or of security issues which imply the use of military means) and as a forum for consultations on security issues between members of the Union and other WEU participants (especially in crisis situations);

— to give an impetus to WEU’s role in elaborating and implementing EU decisions and actions related to humanitarian or crisis management missions by convening of coordinated sessions of the respective bodies, cross participation of experts and the definition of modalities for the financing of operations which may be carried out by WEU at the Union’s request.

— to attain greater EU-WEU interaction through practical measures like harmonization of the respective presidencies (making them coincide in the same country as far as permitted by the asymmetric membership), harmonization of meeting schedules, coordination of the respective working programmes, mutual information, strengthening of cooperation between the respective Secretariats, etc.

20. However, despite the progress that the implementation of these measures would entail, it seems clear that there is scope for the development of the mechanism contemplated in Maastricht. The arrangements required to facilitate WEU’s compliance with the task “to elaborate, and implement decisions and action of the Union which have defence implications” imply in particular the existence of an EU-WEU crisis management mechanism, which has yet to be developed, since this is an essential element of the WEU-EU framework of relations. In this sense:

— It is necessary to develop modalities for the elaboration and implementation of EU decisions and actions which have defence implications, and to provide for a follow-up evaluation of their effectiveness.

— Crisis-management exercises are needed to facilitate the definition of flexible procedures which would allow for a truly operational WEU response; the simulated exercise scenarios would provide the opportunity for the study of command and control problems in accordance with the respective fields of competence.

— It is necessary to establish the most unrestricted exchange of information between the two Organizations as possible.

— The conclusion of a security agreement between WEU and EU is required as well as the adjustment of the security standards in both Organizations.

21. Closer cooperation between the WEU Parliamentary Assembly and the European Parliament is to be encouraged.

[...]

## II. — The future framework of European security and defence

43. There is an agreement, formally declared at Maastricht and also reflected in the Alliance Summit Declaration of 1994, on the need to develop a genuine European Security and Defence Identity (ESDI). In this context, in the Maastricht Declaration WEU Member States agreed that “this identity will be pursued through a gradual process involving successive phases” and agreed “to strengthen the role of WEU, in the longer-term perspective of a common defence policy within the European Union which might in time lead to a common defence, compatible with that of the Atlantic Alliance”.

44. Preparations for the 1996 Intergovernmental Conference offer the opportunity to reflect on the next phase of this development. In effect, and as already indicated, it will fall to the said Conference to review the CFSP provisions of the Treaty on European Union and, consequently, also the present ESDI institutional framework, which is based on WEU’s development as the defence component of the Union and as a means to strengthen the European pillar of the Atlantic Alliance. Obviously, this reflection should be conducted in the light of present military realities and the current security situation in Europe. Furthermore, as the Maastricht Treaty itself indicates, this review should take place having in view the date of 1998, in the context of Article XII of the Brussels Treaty, after which the possibility of denouncing WEU’s modified Brussels Treaty will exist.

45. In any case, the need to review the present ESDI institutional framework is not only due to the time limits established in the treaties. The review of the present framework must also consider the fundamental objectives which institutional arrangements in the defence and security field are designed to serve, and the existing constraints. Public opinion in the Member States demands defence arrangements that are credible and can be relied upon to work in practice. For many European nations, the maintenance of a healthy and effective Atlantic Alliance is fundamental to the defence of their territory and to their national security policy. Others have chosen to remain outside or are not participating in collective defence arrangements. In the post Cold War environment all of them are confronted by new security challenges, some of which may require military responses under EU/WEU auspices in the form of peacekeeping, humanitarian or other crisis management operations. Given that these new missions have to be carried out in a climate characterised by defence budget constraints, unnecessary duplication of structures should continue to be avoided.

46. These new challenges provide the context in which the EU is developing a CFSP that includes all questions related to the security of the Union, including the eventual framing of a common defence policy, which might in time lead to a common defence. Examples of these new challenges, such as the conflict in the former Yugoslavia, where the EU and its member countries play an important crisis management role at all levels, lead to public expectations which are not easy to reconcile within the existing institutional framework. These challenges confirm the need to develop a “greater European responsibility on defence matters”, on which WEU Member States agreed in Maastricht, and which demands from the Union “the consistency of its external activities as a whole in the context of its external relations, security, economic and development policies” called for in Article C of the TEU. Achieving greater cohesion between the different political, economic, humanitarian and military instruments of crisis management seems an obvious prerequisite for the effectiveness and continuity of European actions in this field.

47. The IGC will need to harness to the best effect the diverse contributions to security and defence that European nations are able to make. In this context, whatever course the institutional development of the EU and WEU may follow, the possibilities for participation by WEU Associate Members, Observers and Associate Partners in the ESDI must be maintained and further developed. As already mentioned, enlargement has increased both the asymmetry of membership in both Organizations and the number of countries contributing via the EU and WEU to regional and global security, including in particular the

#### Petersberg missions:

— The recent accession to the EU of Austria, Finland and Sweden, also Observers in WEU, has reinforced the role of both Organizations as a force for stability in Central Europe and the Baltic region. The fact that these States do not share collective defence commitments with other States of the Union, will need to be taken into account in devising appropriate mechanisms for future action in the context of the further development of the ESDI.

— While introducing a new set of asymmetries into the EU-WEU institutional relationship, the incorporation as WEU associate members of European NATO members not members of the Union has made possible their participation in WEU's development as a means of strengthening the European pillar of the Alliance and thus provide a positive contribution to European security and stability.

— Furthermore, the creation of the Associate Partners' Status for Central and Eastern European countries, while increasing the structural complexity of WEU, has been an important factor of stability in Europe. It is also an element in the web of relations these countries enjoy with Western institutions they aspire to join, helping to reinforce their security and stability in the interim.

— Finally, the enlargement process also taking shape in NATO (which will not necessarily proceed at the same pace and with the same countries as in the EU) will have a bearing on the EU/WEU institutional link and on the relations of both Organizations with NATO.

Parallel processes of enlargement of EU, WEU and NATO are desirable and would alleviate the complexities connected with differing memberships of these Organizations.

48. The Atlantic security is indivisible and is a fundamental tenet of the development of ESDI. By providing collective defence for its members and undertaking its new missions, the Atlantic Alliance will continue to be a core element of European security. From this perspective, it is clear that decisions on the future development of the WEU/EU relationship cannot be taken in isolation from their effect on WEU/NATO relations, and on the Alliance itself. Irrespective of the institutional form that the ESDI might adopt in the future, the European institution responsible for defence must continue to act as a means to strengthen the European pillar of the Alliance. At the same time, decisions at the IGC must also aim at reinforcing the common defence and cooperation in the new field of crisis management within the framework of the Atlantic Alliance.

49. There are several theoretically possible options for the future institutional development of the ESDI. Three broad options have been identified. Logically, each of them allows for possible variations and has specific repercussions on matters relating to the juridical form, members, functioning of bodies, decision-making procedures, relations with EU and NATO, operational development, financing, etc.

#### **A) Reinforced partnership between an autonomous WEU and the European Union:**

50. If this Option were to be retained, the institutional relationship between the EU and WEU would remain as set out in the Maastricht Treaty, supplemented by the provisions of the reinforced partnership described below. WEU would be preserved as an autonomous Organization with its own separate Treaty base. The principle of national sovereignty would continue to govern relations between European countries on defence matters. The intergovernmental nature of decision-making on these issues would be preserved and be conducted on the basis of consensus. Therefore, the modified Brussels Treaty would remain in force and unaltered, without making use of the possibility of denunciation after 1998 established in Article XII of the Treaty.

51. Under this Option priority would be given to further increasing WEU's capability to carry out the tasks set out in the Petersberg Declaration rather than to further changes to the legal and institutional framework. To this end the operational relationship between EU and WEU would be developed in respect of military actions undertaken at the Union's request. The aim would be to achieve greater coherence than at present of European action in the security and defence fields, and to develop a faster and more effective operational/military elaboration of decisions and actions than at present.

52. The flexible nature of the present relationship would be exploited to provide a framework within which to encourage the contributions of a wide range of European countries. Differing memberships will need to be taken into account in devising the links between both Organizations. Associate Members, Observers and Associate Partners of WEU would continue to be able to participate in WEU operations in accordance with their status. In a reinforced partnership the provisions of Observer status would be interpreted so as to allow these countries to make the fullest possible contribution to WEU's work. The provisions of Observer status should accordingly be reviewed both with this aim in mind and to consolidate the relevant documents on Observer status.

53. As regards the procedure for decision-making on matters with defence implications, the basic rule should be consensus both in the CFSP and in the WEU framework. There would be no participation of the European Commission and Parliament in defence-related decision-making. The possibility of WEU independently deciding on action, besides acting at the EU's request in accordance with Article J.4(2) of the TEU, would be preserved.

54. This option would also imply the preservation of the WEU bodies existing today, fully independent with respect to those of the EU. In particular, the Council of Ministers, the Permanent Council and the Parliamentary Assembly would keep their roles. However, the reinforced partnership would find its expression at the highest political level by the creation of a "WEU Summit" which could meet as necessary back-to-back with the European Council. The European Council, to which the WEU Secretary-General might be invited when it discusses issues affecting the CFSP, could make proposals to the new WEU body. On its part, the WEU Summit would have responsibility for formulating general guidelines on collective European military action, in line with the role of WEU as the defence component of the EU. Countries would have the same rights and responsibilities in the WEU Summit as at present in the remainder of the Organization.

55. In developing this option, agreement would also be needed between the EU and WEU on the coordination of policy objectives for individual operations, the formulation where relevant of joint assessments once WEU has accepted a request from the EU, agreement on the competences of the respective bodies, including those in the field, and cooperation between the CFSP Secretariat and WEU bodies on the monitoring of relevant operations.

56. These requirements suggest the need for closer working links between the EU and WEU at levels below the Summit, as required for individual operations:

— The WEU Ministerial Council could meet when necessary back-to-back with the EU's General Affairs Council, which could formulate a request for action by WEU in support of the EU's CFSP.

— Meetings at senior official level to discuss issues related to an operation could take place e.g. between the EU's Political Committee and the WEU Permanent Council reinforced by diplomatic and military experts from capitals.

— EU/WEU Task Forces could be established for the duration of individual operations. Together with systematic cross-representation between EU and WEU working bodies, this would ensure continuous politico-military coordination for operations carried out at EU request.

— Mechanisms for crisis monitoring, analysis and planning in the WEU Secretariat and Planning Cell on the one hand and the CFSP Unit of the EU Council Secretariat on the other, should be created in close coordination between both Organizations with a view to the establishment of joint EU/WEU mechanisms.

57. WEU should be further strengthened in the operational field by building WEU capabilities that are both effective and credible, and that are compatible rather than in competition with NATO, avoiding unnecessary duplication and meeting a proven requirement. In this context, the following issues would need to be considered:

- Further to improve mechanisms for decision-making and management of WEU operations.
- To increase human and financial resources of the Secretariat, the Planning Cell and the Satellite Centre, in accordance with established budgetary procedures.
- Decisions on the proposals regarding the development of WEU's capability to use satellite imagery, and on the creation of a future European Armaments Agency and a European Security and Defence Academy.
- A decision to increase lacking resources of the ESDI in fields such as intelligence or strategic mobility.
- Implementation of the CJTF concept, defined in terms broad enough to increase WEU's ability for carrying out the Petersberg missions and to favour ESDI's specific contribution to the collective defence, within the Atlantic Alliance, while safeguarding the strength of the transatlantic relationship.

58. A reinforced partnership would underline the need for further consideration of the procedures for financing WEU operations. This could include arrangements for the EU to contribute to the common costs of operations arising from its requests to WEU.

#### **B) Intermediate options towards an EU-WEU institutional convergence:**

59. Between the strict preservation of WEU's institutional autonomy and its merger with the European Union several intermediate options are possible which, while respecting the present separation and the Brussels Treaty, would provide for even closer EU-WEU links and continuity of action through convergence between the two Organizations, in the perspective of the future integration of WEU into the EU. Commitments of a political and/or juridical nature would be assumed between WEU and the EU, thus providing the ESDI with a more structured framework, as those commitments would assign to one of the two Organizations on which ESDI is based a certain directing role over the other for some activities. The EU-WEU convergence could be reflected in the wording of the revised TEU, in order to give a clearer perspective for organizational changes.

60. An important consideration would be to retain the flexibility required to make the most of the differing contributions which the enlarged memberships of EU and WEU can bring to European security. Differing memberships will need to be taken into account in devising the links between both Organizations. Associate Members, Observers and Associate Partners of WEU would continue to be able to participate in WEU operations in accordance with their status. The provisions of Observer status would be interpreted so as to allow these countries to make the fullest possible contribution to WEU's work. The provisions on Observer status should accordingly be reviewed both with this aim in mind and to consolidate the relevant documents on Observer status. The possible unfavourable implications for the situation and status of Associate Members of the implementation of Option B would have to be addressed both in the EU and WEU. In this sense, ways of developing closer links with CFSP for Associate Members when dealing with issues related

to security and defence matters may need to be considered by the IGC.

61. Under this Option, the possibility of WEU deciding autonomously its own actions would be maintained as at present, without prejudice to its having henceforth to elaborate and implement decisions of the Union. As regards the decision-making procedures, many countries strongly feel that the principle of national sovereignty should continue to govern relations between European countries on defence matters and that the intergovernmental nature of decision-making on these issues should be preserved and be conducted on the basis of consensus, while not questioning that a final decision will have to be taken in the IGC framework, where all possible options, including majority-voting, are to be considered. In any case, it would be necessary to improve the procedures for the adoption of EU decisions addressed to WEU, in order to make the EU-WEU link more effective and operational.

In case present EU decision-making procedures would be preserved, they would have to be consistent with the establishment of a firm political or juridical commitment of WEU to elaborate and implement decisions and actions of the Union. This objective could be met through a flexible and juridically non-binding formula that would make the blocking of decisions politically more difficult:

— This kind of political commitment already exists within the CFSP framework, in the form of Declaration 27, annexed to the Maastricht Final Act, on voting in the CFSP field (“The Conference agrees that, with regard to Council decisions requiring unanimity, Member States will, to the extent possible, avoid preventing a unanimous decision when a qualified majority exists in favour of that decision”). As a minimum, the TEU’s review should be an occasion to recall that Declaration (which is of course applicable to EU decisions concerning requests to WEU) and to stress the will to apply it in practice.

— An additional step in the same direction would be the adoption, in the framework of the TEU’s review, of a specific political commitment inspired in the mentioned Declaration 27, whereby all EU countries would declare their intention not to block, to the extent possible, the adoption of decisions having defence implications (and therefore addressed to WEU) for which a qualified majority exists.

— Similarly, a non-binding principle could be established to the effect that countries which do not participate in an operation requested by the EU and implemented by a “coalition of the willing” within the WEU framework voluntarily abstain from blocking a consensus on eventual follow-up operational decisions, taken in the context of an ongoing operation.

62. Participation in military action implementing a decision of the EU would remain a matter for national decision in accordance with countries’ status in WEU.

63. If these intermediate options were to be retained, they would maintain the present structure of WEU bodies. The closest possible harmonization and coordination between all EU and WEU bodies would be required in this context, given the increased relevance of EU decisions for WEU’s functioning. Among other measures, the following could be envisaged:

— Back to back and/or joint meetings of WEU and EU working groups.

— Joint meetings of the Political Committee and the WEU Permanent Council on an ad-hoc basis to prepare for European and General Affairs Council as far as they will discuss crisis management issues.

— Attendance at parts of the General Affairs Council on crisis management by the WEU Secretary-General and the Ministers of Defence.

- Mechanisms for crisis monitoring, analysis and planning in the WEU Secretariat and Planning Cell on the one hand and the CFSP Unit of the EU Council Secretariat on the other, should be created in close coordination between both Organizations with a view to the establishment of joint EU/WEU mechanisms.
- Harmonization of the sequence of WEU and EU presidencies, taking account of the differing memberships and of the need to treat Member States on an equal footing.
- Continuous liaison between the respective Secretariats.

64. These options would underline the need for further consideration of the procedures for financing WEU operations, including the possibilities for the EU to contribute to operations it entrusts to WEU. With regard to the implementation of decisions with defence implications taken within the EU framework of CFSP, a participation of supranational bodies should not be excluded *a priori*.

65. Relations with NATO would be maintained and further strengthened. Flexible arrangements for the use of NATO assets and capabilities and, as soon as developed, the CJTF concept, will facilitate WEU missions entrusted by the EU.

66. The reinforcement of institutional links between WEU and the EU implies the parallel reinforcement of WEU's operational capabilities so that WEU in fact becomes the defence arm of the EU. The building of capabilities that are both effective and credible must be compatible with NATO avoiding unnecessary duplication. In this context, the following aspects would need to be examined:

- Further to improve mechanisms for decision-making and management of WEU operations.
- To increase human and financial resources of the Secretariat, the Planning Cell and the Satellite Centre.
- Decisions on the proposals regarding the development of WEU's capability to use satellite imagery, and on the creation of a future European Armaments Agency and a European Security and Defence Academy.
- A decision to increase lacking resources of the ESDI in fields such as intelligence or strategic mobility.
- Implementation of the CJTF concept, defined in terms broad enough to increase WEU's ability for carrying out the Petersberg missions and to favour ESDI's specific contribution to the collective defence, within the Atlantic Alliance, while safeguarding the strength of the transatlantic relationship.

67. The possibility of WEU independently deciding an action, besides acting at the EU's request, in accordance with Art. J.4.2. would be preserved. The main difference between these intermediate options and the one that would maintain the full institutional autonomy of WEU lies, of course, in the establishment of firm juridical and/or political commitments between both Organizations. Depending on the form adopted by such commitments, the following three options or modalities could be identified:

(B.1) General European Council guidelines.

68. Under this modality, the review of the TEU would confer to the Union a bigger political role in defence matters, enabling it to set the framework for military action by WEU, especially in crisis situations. To this

end, the European Council would have responsibility for formulating general guidelines also on questions having defence implications. Therefore, such guidelines would be addressed also to WEU, as the Organization requested to implement through the appropriate military actions the follow-up decisions adopted by the EU at Ministerial level. This would be a clear demonstration of the political resolution of European governments to meet the new challenges to European security using the entire range of crisis reaction instruments available, including the use of military means.

69. As long as WEU does not assume any treaty obligations in this respect, these general guidelines would not be juridically binding for the Organization. However, a political commitment reflecting the revised TEU provisions could be undertaken by WEU in the framework of the review of its Declaration of 10 December 1991, stressing the readiness of WEU to follow European Council guidelines on defence matters in order to ensure consistent European action in crisis management.

#### (B.2) EU instructions to WEU:

70. As a further step towards WEU-EU convergence at the IGC, Article J.4(2) of the TEU could be reformulated to make it clear that WEU is both politically and operationally subordinate to the EU, with the former having the task of implementing decisions taken by the latter. To this end, the word “requests” in the first sentence of that Article could be replaced by “instructs”.

71. Similarly, the second sentence of paragraph 3 of the WEU December 1991 Declaration would be amended or supplemented to indicate WEU’s willingness to take action when so instructed by the Union and following its general guidelines. Thereby, WEU would make it clearer — although without juridical commitment — that it regards itself as the EU’s implementing body.

72. Consistent with this approach, the review of the TEU may wish to envisage the possibility for the EU to take decisions concerning joint actions with defence implications. Their implementation — once formally accepted by WEU — might be left to coalitions of the willing.

#### (B.3) Legally binding link between the EU and WEU:

73. A further intermediate option would be the conclusion of a legally binding agreement between the EU and WEU committing the latter Organization to the elaboration and implementation of decisions and actions with defence implications which may be entrusted to it by the Union. This option would still maintain the EU-WEU separation and, consequently, the validity of the Modified Brussels Treaty. However, it would alter the juridical form of the EU-WEU institutional framework to the extent that it would establish legally binding commitments between EU and WEU (probably but not necessarily in addition to the TEU amendments referred above) in order to reinforce WEU’s role as the implementing body of the EU.

74. The agreement would close a juridical gap between WEU and the EU, as the modified Brussels Treaty does not contemplate the latter’s existence. It would define, *inter alia*, the following aspects:

— Conditions for a EU decision to be binding on WEU and for the termination of this obligation. This is the most important point, as it would establish a certain condition of subordination in WEU’s relation with the EU. Under the conditions to be determined in the EU-WEU agreement, WEU would be legally committed to implement decisions and actions of the Union having defence implications.

— Types of missions (those defined in the Petersberg Declaration) and conditions under which WEU would implement them.

— Voluntary character of national contributions to those operations, as the Agreement would be legally binding on WEU as an Organization, but it could never individually commit Member States to contribute

with forces should they not desire to do so.

— Financial aspects (see para. 64).

It would also be necessary to make arrangements with NATO in order to allow WEU to carry out decisions or actions requested by the Union.

75. Under these models, military expertise would already be required for the EU decision-making process. To this end, appropriate mechanisms for the timely introduction of military expertise at working group, senior official and General Affairs Council level, possibly through liaison arrangements with the corresponding WEU bodies, would have to be developed.

### **C) Integration of WEU into the EU:**

76. The “eventual framing of a common defence policy, which might in time lead to a common defence” is inscribed among the objectives of the Treaty on European Union. In this perspective, WEU Member States agreed in their Maastricht Declaration that a European Security and Defence Identity needs to be developed “through a gradual process involving successive phases”, that the role of WEU should be strengthened in this context and that WEU “will form an integral part of the process of the development of the European Union”. Maastricht does not set any timetable for this gradual development, nor does it prescribe any specific model as last outcome. At the same time, however, the concepts of a common defence policy and of a common defence within the EU clearly suggest the possibility that some day the Union takes over all the functions presently being carried out by WEU in matters of security and defence. In this context, the Intergovernmental Conference should contemplate the option of integrating WEU into the Union (in some of the ways described below), overcoming thus the institutional situation maintained in Maastricht and setting in its place a single institutional framework for European security and defence. The aim would be to achieve greater coherence than at present of European action in the foreign, security and defence policy fields and to develop a faster and more effective operational/military elaboration and implementation of decisions and actions.

77. In the juridical sphere, the first consequence of this option would be the disappearance of the modified Brussels Treaty. To this end, the signatory States would avail themselves of the denunciation possibility, after 1998, provided for in Article XII of the Treaty. With this Western European Union as an international Organization would also disappear.

78. The second juridical consequence of this option would be the establishment, within the European Union, of a juridical framework for defence issues, thus providing the functions and capabilities transferred from WEU with a legal basis. The corresponding provisions — in any of the possible modalities identified below — would be introduced in the course of the review of the Treaty on European Union to be undertaken by the Intergovernmental Conference. The IGC would have to decide on the appropriate decision-making mechanisms for the modality adopted.

79. The institutional conclusion drawn in this option from the continuity and interwovenness that exists between foreign, security and defence policy is to integrate WEU into the EU.

Based on this premise, under this option, the participation of Associate members in the further development of the ESDI would have to be maintained and even improved vis-à-vis their present status, through appropriate arrangements to ensure their involvement and association with the CFSP.

Similarly, the present status of Associate Partners within the ESDI would be reflected in new links they would establish with the EU in order to facilitate their cooperation in defence issues with the Union, along the lines of the cooperation they maintain today in this field with WEU.

Under this option, it would not be necessary to have discussions on the status of the present WEU Observers.

Furthermore, it would not be necessary to devise mechanisms and procedures for coordination and cooperation between WEU and the EU, such as back-to-back meetings, synchronization of dates, harmonization of Presidencies, cross representation at meetings, etc.

80. In the operational sphere, an integration of WEU into the EU would eliminate duplications in decision-making which can delay action when different organizations are concerned. Joint actions with defence implications (including crisis management and peacekeeping) would be more feasible and would have the advantages of joint financing, either from the Community budget or through particular arrangements. While troop contributions would remain subject to national decision, participation by all EU Member States in other aspects of the joint action and in its common funding and other forms of support would reinforce the effectiveness of European crisis-management operations. For this integration to provide further added value, the operational capabilities necessary for these kinds of action should be made available, both through arrangements for the use of NATO assets and capabilities, including CJTF, and through the development of complementary EU capabilities.

81. WEU, including its military expertise and its subsidiary bodies, would become part of appropriate EU structures. The WEAG and the groups transferred from the Eurogroup, should they not have been previously merged with WEU/EU, could maintain within the EU the same position they have today in the WEU framework. While administrative costs would have Community financing, specific formulae would be arranged for operational expenditures.

82. With this option, present WEU relations with NATO would be replaced with a direct relationship between EU and the Alliance that would build on the present WEU-NATO relationship, taking into account the change in the institutional configuration of the European pillar. Furthermore, a Declaration addressing relations with NATO could be envisaged and, in parallel to WEU's Maastricht Declaration, be annexed to the result of the IGC.

83. The new ESDI juridical framework envisaged under this option could adopt several modalities, depending on the EU area in which the collective defence commitment would be placed. Logically, the adoption of one or the other would also depend on the national positions and on the decisions taken by the Intergovernmental Conference regarding other aspects of the European construction. In this context, the following two modalities could be taken into consideration, if this option were to be retained:

#### (C.1) European defence within the CFSP:

84. This modality would imply incorporating the relevant provisions of the modified Brussels Treaty into the main body of the new Treaty on the Union, basically Article V (collective defence commitment) and perhaps also Articles IV (relations with NATO), VI (United Nations) and VII (not to enter alliances directed against another Contracting Party), as well as provisions covering the Petersberg tasks.

85. This could be done in the framework of the review of Article J.4 of the present TEU by defining in the common defence policy that these defence questions will also come under the CFSP, as well as by removing references to WEU (paragraphs J.4.2 and J.4.6). On the other hand, the present paragraph J.4.3, which excludes the application to these questions of the procedures defined for Joint Actions, would be maintained.

86. This defence dimension would be open to all EU Member States. However, a drifting apart of the defence commitments in the EU and NATO, which would weaken the transatlantic security link, must be avoided. Those members who could not or would not desire to participate in a collective defence commitment could be exempted from that particular arrangement. This would amount to an "opting out" from part of the defence dimension, similar to the one already applied by some countries for monetary policy.

87. The organs would be basically those presently existing for CFSP. Nevertheless, when dealing with defence issues, the dual format used in WEU could usefully be applied; for instance, this could be the case for the Council of Ministers, which would include both Foreign and Defence Ministers as well as for the other organs of the CFSP. The Permanent Council and its working groups would be dissolved and their functions taken over by the corresponding structures and working groups of the Second Pillar. The Parliamentary Assembly's functions would be assumed by the European Parliament in accordance with the provisions governing the CFSP. The Commission would be associated to such matters as it is at present to work in the CFSP field (Articles J.8.3 and J.9 of the TEU), thereby making available its expertise in other aspects of external relations as well as in financial and budgetary issues.

(C.2) Adoption of a Defence Protocol annexed to the TEU:

88. Under this modality, defence would be placed within the EU framework in such a way that no country is compelled to either assume a collective defence commitment or resort expressly to an "opting-out" from this commitment. A dual mechanism would be employed:

— to include into the main body of the revised Treaty on the Union provisions for a common European defence policy, in which all members would participate;

— to incorporate, as an annex to the Treaty, a Protocol for collective defence, open to all EU Member States. However, a drifting apart of the defence commitments in the EU and NATO, which would weaken the transatlantic security link, must be avoided.

89. In this sense, questions of security with military implications (excepting those related to the collective defence) would be dealt with within the CFSP, as in the previous modality. Therefore, the present Article J.4 of the Treaty would have to be modified as described above and would basically contain the following elements:

— A definition of common defence policy. This would include distinction between the crisis management missions defined in Petersberg (in which in principle all EU members would participate on an equal basis) and the collective defence.

— Consequently, the organs would be the same as for the previous modality of this option, but obviously they would not have, in this format, any responsibilities for questions related to the collective defence.

— As in the previous modality, the appropriate operational capabilities and bodies required to elaborate and implement decisions or actions with military implications for Petersberg missions would be incorporated or developed in the EU.

— In order to facilitate the elaboration and implementation of EU operations, it would be equally necessary to provide for the establishment of suitable arrangements for the EU-NATO relations and to allow for the use of Alliance assets and capabilities, including CJTFs, for European-led operations.

90. At the same time, a Protocol annexed to the Treaty on European Union would take over the key provisions on mutual assistance for the collective defence contained in the present modified Brussels Treaty and its annexed Protocols (mainly the already mentioned Articles IV-VII). It would specially include the

definition, with a view to collective defence, of the “European pillar” of the Alliance, as well as the relations between the two Organizations in this field.

91. Logically, the Protocol should be acceded to by the States which are Parties to the modified Brussels Treaty, i.e., the present WEU full members (as this Organization would disappear when the Treaty is denounced after 1998). It would thus not be an “opting-out” arrangement as in the previous modality, but rather an “opting-in” for the countries which may so desire.

92. Under this modality there would be, on the one hand, a direct link between the CFSP and its implementation in the military field, in particular for crisis management operations (in which participation with forces would continue to be on a voluntary basis, as presently in WEU). At the same time, the present security and defence policies of all Union members would be respected (including those that today do not share collective defence commitments), since the mutual defence guarantee would be an optional commitment, of a voluntary nature, apart from the fact that its application would take place in the NATO framework.

## **Conclusions**

93. The present document evaluates the experience acquired in the implementation of the provisions and practical measures adopted at Maastricht in matters of defence and identifies a number of possible options for the future development of the EU-WEU institutional relationship, towards the agreed objective of the eventual framing of a common defence policy which might in time lead to a common defence, compatible with that of the Atlantic Alliance. This analysis leads to some conclusions on the further steps that could be taken to this end, both in the operational and in the institutional field.

### **A) Operational strengthening of the ESDI:**

94. Irrespective of the outcome of the institutional debate on European defence at the IGC, there is a broad consensus on the need to make available the operational capabilities necessary for European military action, particularly in the field of the new tasks defined at Petersberg. The mostly organizational measures agreed to this end at Maastricht have still to be fully implemented and additional efforts are needed to deliver appropriate military assets and capabilities that are both effective and credible. Recent work in WEU, especially regarding the politico-military structures, intelligence capabilities (including the use of satellite imagery) and the concept of Forces Answerable to WEU (both national and multinational), points in the right direction.

95. At the same time, appropriate arrangements for the use of NATO assets and capabilities—including CJTF—are needed. Relations with NATO and the transatlantic link should be reinforced, as a strong Atlantic Alliance is a condition for the operational strengthening of the ESDI.

96. Such operational steps are necessary to develop WEU as the defence component of the European Union and as a means to strengthen the European pillar of the Atlantic Alliance. Otherwise, both the establishment of closer EU-WEU links and the ongoing adaptation of the Alliance’s structures would not have the desired results. In this sense, the present reflection should also be used as an opportunity for stressing the need to reinforce WEU as an effective military instrument in such a way that it can be used at the request of the EU, in particular to supply the means for the new missions defined in the Petersberg Declaration.

97. To this end, particular attention should be devoted to continuing the process of developing national and multinational FAWEUs and to the development of cooperation in space, armaments, air defence, as well as to other valuable initiatives. At the same time, WEU should continue to develop adequate politico-military structures, capabilities in the field of military intelligence, crisis monitoring, operational planning, etc in order to be able to effectively use the national and multinational means available to it.

### **B) Strengthening the institutional framework**

98. There is consensus among WEU Member States on the following principles and guidelines to assist the IGC on European defence arrangements:

— The aim should be to develop an outward-looking European Union which is able and willing to contribute to building regional and global security, by means of a greater European contribution on defence matters leading to an improved European defence capability which strengthens the European pillar of the Atlantic Alliance and therefore the Alliance itself.

— The European security and defence identity should be developed in line with security realities and in conformity with the objectives agreed in the Treaty on European Union, including the eventual framing of a common defence policy, which might in time lead to a common defence, compatible with that of the Atlantic Alliance.

— Whatever form European defence arrangements take in the future, the collective security guarantee currently embodied in Article V of the modified Brussels Treaty must be preserved. In operations for the collective defence of their territory, WEU Member States will act within the framework of the Atlantic Alliance.

— As Ministers agreed at Petersberg, the task on which WEU should focus should be to allow, in particular through an increasing operational capability, a more effective European military contribution to the new missions defined in their Declaration.

— As agreed in Maastricht, WEU Member States will intensify their coordination on Alliance issues which represent an important common interest with the aim of introducing joint positions agreed in WEU into the process of consultations in the Alliance, on the basis of the necessary transparency and complementarity between the emerging European security and defence identity and the Alliance.

— The Alliance will remain the essential forum for consultation among its members and the venue for agreement on policies bearing on the security and defence commitments of Allies under the Washington Treaty. NATO can be called upon to undertake missions in addition to the traditional and fundamental task of collective defence of its members.

— Relations with NATO and the transatlantic link should be reinforced, since greater European responsibility on defence matters and a strong Atlantic Alliance are mutually supportive factors of European security. Therefore the WEU Member States support the ongoing efforts of the EU to develop its future transatlantic agenda by complementing the transatlantic security link with a new programme of political and economic cooperation.

— WEU's operational capabilities (and the mechanisms for making NATO assets and capabilities, including CJTFs, available for WEU operations) should be further developed to allow it to undertake effectively its tasks, as indicated in the previous section on operational conclusions. Existing European multinational forces available to WEU are also available to NATO. The practice of availability of multinational European forces both to WEU and NATO should continue to be followed.

— At present, decision-making on defence matters is intergovernmental and is conducted on the basis of consensus. Whatever the outcome of the IGC, participation in the new tasks defined at Petersberg will remain a matter for national decision. Implementation of such actions could be undertaken by coalitions of the willing.

— European defence arrangements must not constrain freedom to act in fulfilment of national defence commitments.

— The sovereign decisions of WEU Observers regarding their defence arrangements will be respected. The IGC should promote European arrangements that enable all WEU and EU countries to contribute to the fulfilment of Petersberg tasks. European defence arrangements should encourage equitable burden-sharing between nations.

99. Notwithstanding the common elements outlined above, there are two different views among WEU Member States as to the way ahead regarding the future development of European defence arrangements and structures, in particular the future relationship between WEU and the EU.

I. One view favours the preservation of WEU as an autonomous Organization. This view is reflected in “Option A” (reinforced partnership between an autonomous WEU and the EU). This option is based on the belief that the principle of national sovereignty must continue to govern relations between European countries on defence matters, and that the intergovernmental nature of decision-making on defence matters must be preserved and this decision-making will be conducted on the basis of consensus. This option gives priority to further increasing WEU’s capability to carry out the tasks set out in the Petersberg Declaration rather than to further changes to the legal and institutional framework. At the same time, the EU and WEU would exploit the scope within the existing treaty provisions to build a closer relationship at all levels, including at the highest political level, by the creation of a WEU Summit, which could meet as necessary back-to-back with the European Council. According to this view, the maintenance of the present relationship between WEU and EU provides the right framework within which to develop WEU’s operational capabilities, including a faster and more effective operational-military elaboration of decisions and actions than at present, and to encourage the contributions of a wide range of European countries. The IGC could encourage the further development of EU/WEU working relations as well as WEU’s efforts to develop its operational capabilities in order to improve its effectiveness as an instrument for European crisis management, with the purpose of achieving greater coherence than at present of European action in the security and defence field. At the same time it could encourage the forging of closer operational links with NATO in order to allow European countries to act together using capabilities and assets available within the Atlantic Alliance.

This option would leave open the future development of European defence arrangements. It could be implemented under arrangements maintaining WEU as an autonomous Organization but is also compatible with a longer-term perspective of a more integrated approach.

II. The majority view equally shares the desire to make maximum use of the existing treaty provisions for operational reinforcement of the ESDI and strengthening of cooperation between EU, WEU and NATO but, in addition to this, advocates the gradual integration of WEU into the EU, with the purpose of achieving greater coherence than at present of European action in the security and defence field.

In this context, two different approaches have been suggested when defining the steps to achieve this goal:

— either an IGC agreement on measures to promote EU-WEU convergence, with full integration as the final

goal (“Option B”)

— or an IGC agreement on the objective and timetable for integrating WEU into the EU in the short/medium term (“Option C”).

The different modalities identified under this view could be seen as complementary measures and could be considered either separately or as successive phases of a sequential approach.

— “Option B” (intermediate options towards an EU-WEU institutional convergence), while maintaining the possibility of WEU deciding autonomously its own actions, would introduce some changes with respect to that present institutional autonomy. As regards the decision-making procedures, many countries strongly feel that the principle of national sovereignty should continue to govern relations between European countries on defence matters and that the intergovernmental nature of decision-making on these issues should be preserved and be conducted on the basis of consensus, while not questioning that a final decision will have to be taken in the IGC framework, where all possible options, including majority-voting, are to be considered. The declared purpose of this Option would be to facilitate a faster and more effective operational-military elaboration and implementation of EU decisions and actions than at present, stress the role of WEU as implementing body of the EU and give a clear aim to the development of the EU/WEU link.

Under this Option, the IGC could lead to one or more of the following measures:

- \* (B.1) Provisions enabling the European Council to issue general guidelines on WEU actions.
- \* (B.2) Provisions enabling the EU to give instructions to WEU.
- \* (B.3) Establishment of a legally binding link between the EU and WEU, through an agreement which would commit the latter to elaborate and implement decisions and actions of the Union.

“Option C” would mean the integration of WEU into the EU, thereby removing the institutional diversity still remaining under the previous options. According to this view, this would be the right consequence of the provision in the TEU on the development of a CFSP including the eventual framing of a common defence policy, which might in time lead to a common defence. This view also considers that WEU-EU integration would increase the coherence and effectiveness of European decision-making in the field of foreign, security and defence policy compared to the present situation. Furthermore, under this option, the development of operational capabilities would also be pursued vigorously. At the same time, close working links between NATO and the EU would be forged and other European allies would be associated with the CFSP. When examining the decision-making procedures for the CFSP (including by allowing for majority voting), the question of an exception for defence issues will have to be addressed by the IGC. This option could be implemented in one of the following ways:

- \* (C.2) Incorporation of the crisis management aspects of defence into the CFSP (thereby providing for a direct link between the CFSP and its implementation in the military field), together with the adoption of a

Defence Protocol annexed to the TEU incorporating the collective defence commitment, to which Member States would opt in on conditions to be agreed.

\* (C.1) Incorporation of all aspects of defence into the CFSP and the main body of the TEU, allowing countries unable to enter into the collective defence commitment to opt out of this commitment.

100. Whatever the options envisaged, and without prejudging the IGC, all WEU Member States reaffirm their agreement to proceed without delay with the strengthening of the relationship, both operational and institutional, between the European Union and WEU. The aim is to achieve greater coherence than at present of European action in the security and defence field, including through an effective and expeditious implementation of EU decisions with defence implications. The principle of reinforced partnership (Option A) is designed to further this closer relationship. Most Member States would prefer to go beyond than this option at the IGC, either by promoting increased EU/WEU convergence (Option B) or by writing into an amended Treaty the objective and timetable for EU/WEU full integration (Option C).

101. On the occasion of the Intergovernmental Conference, there needs to be fresh impetus for the development of the European security and defence identity and in this context, all WEU Member States reaffirm their will to develop “a greater European responsibility on defence matters”. The objective is to provide a more effective and coherent response to the security risks and challenges which the European countries are facing today.

In this connection, as evidenced by the different options discussed above, all the Member States state their agreement as to the need to strengthen WEU’s operational capabilities in order to contribute effectively to the development of the European security and defence identity.

Regarding the institutional aspects, all WEU Member States conclude by reaffirming their agreement to the advisability of strengthening the links between the European Union and WEU.

The aim is to enable WEU to contribute to the gradual construction of the European security and defence identity referred to in the WEU Maastricht Declaration in order to promote peace, security and progress in Europe and the world.