

AMENDMENT FORM

Suggestion for amendment of Article: 21, Part II – Title B

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Status: Members and alternate members.

1. The closer cooperation on mutual defence provided for in Article 30(7) of Part One shall be open to all Member States of the Union. A list of participating Member States shall be set out in a Declaration annexed to this Constitution. If a Member State wishes to take part in such cooperation at a later stage, and thus subscribe to the obligations it imposes, it shall inform the European Council of its intention and subscribe to the Declaration annexed to the Constitution.
2. A participating Member State which is the victim of armed aggression on its territory shall inform the other participating States of the situation and may request aid and assistance from them. Participating Member States shall meet at ministerial level, assisted by their representative on the Political and Security Committee and the Military Committee.
3. The United Nations Security Council shall be informed immediately of any armed aggression and the measures taken as a result.
4. In the execution of the closer cooperation on mutual defence, the participating Member States shall work in close cooperation with the North Atlantic Treaty Organisation. Recognising the undesirability of any unnecessary duplication of NATO structures, such as command and planning capabilities, the participating Member States will rely on existing cooperation arrangements between the EU and NATO. These provisions shall not affect the rights and obligations resulting, for those concerned, from the North Atlantic Treaty.

Explanation:

Any commitment to collective defence outside the framework of NATO runs the risk of being militarily unviable and politically divisive. Should the Convention wish to proceed with a provision on a mutual defence commitment a minimum condition for avoiding these risks would be to clarify the NATO link.

The Praesidium highlights that ten of the European Union's current Member States are members of the Western European Union and are therefore already bound by a mutual defence commitment under Article V of the Brussels Treaty. Hence the need to introduce closer cooperation enabling those wishing to do so to "repeat" the commitment already entered into under Article V of the Brussels Treaty in the Union framework.

If this is the case, one should concomitantly “repeat” the NATO link currently found in Article IV of the Brussels (WEU) Treaty. Article IV of the Brussels Treaty reads as follows: In the execution of the Treaty the High Contracting parties and any organs established by Them under the Treaty shall work in close cooperation with North Atlantic Treaty Organisation. Recognising the undesirability of duplicating the military staffs of NATO, the Council and its Agency will rely on the appropriate Military Authorities of NATO for information and advice on military matters.

The amendment above is based on Article IV of the Brussels Treaty suitably revised to reflect the existing structures of the EU as well as the permanent cooperation arrangements between the EU and NATO (Berlin+) which provide ready access by the EU to the collective assets and capabilities of NATO for operations in which the Alliance as a whole is not engaged.

The substitution of “may” for “shall” in Article 30 (6) of Part One simply reflects the fact that the constitutional treaty obviously cannot lay down a legal obligation but merely enable those member states willing to do so to "repeat" the commitment already entered into under Article V of the Brussels Treaty in the Union framework.