

Working Group VIII

Working document 40

## **WORKING GROUP VIII « DEFENCE »**

**Subject :**    **Comments by Mr John Gormley on the preliminary draft final report of Working Group VIII "Defence" (WD 022)**

Members of Working Group VIII will find attached comments by Mr John Gormley, alternate member of the Convention, on the preliminary draft final report.

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**SUBMISSION BY MR JOHN GORMLEY, T.D., ON MR BARNIER'S PAPER**

An EU Common Foreign and Security Policy (CFSP), must be based on pro-active conflict prevention by peaceful means, in full cooperation with the UN, and fully accountable to the European Parliament and National Parliaments.

This should be founded on the twin beliefs that:

1. The international settlement of disputes should rest solely with the United Nations and must be based on the UN Charter and principles of international law.
2. Security must be broadly defined, with conflict prevention and resolution measures being directed at the full range of social, economic, political and environmental issues that breed insecurity, injustice, and war.

The ambivalence of many European citizens towards the increased militarisation of the European Union is reflected very well in the last sentence of point 33, which states: "The fact that security depends on the use of military resources is sometimes seen as contradicting the very essence of the tradition of European integration, which is on the contrary founded on the abandonment of force and on a state of peace between peoples".

The great success of the EU has been the creation of an area of peace and stability in Europe.

The Convention on the Future of Europe should, therefore, be dealing with 'security' in its broadest sense and not narrowing its focus to the defence/military dimension of the issue. There is a need for a more 'holistic' approach to these issues.

Defence cannot be artificially separated from Common Foreign and Security Policy (CFSP). Obviously the report from the Working Group on Defence, given its remit, will have quite a narrow focus.

The EU should be considering putting systems in place to monitor/audit all EU policies to see how they impact on a) the environment, b) development, c) areas of conflict, and how these policies can be reformed to enhance international security. For instance, what changes should the EU make in CAP policies, agricultural subsidies, and other trade policies to ease the negative impact on developing countries? How can the code of conduct on arms sales be strengthened?

The Convention should consider amending the treaties as suggested in the EPLO (European Peace Building Liaison Office) position paper entitled building conflict prevention into the future of Europe.

A focus of increasing the EU's security should be enhancing its relationship with the United Nations. For example:

- 1) On the funding level, the EU could be supporting new sources of funding for the UN, including achievement by the EU states of the 0.7% of GNP target towards development aid that the UN has requested; championing revenue raising for UN programmes and operations, including, for example, a Tobin tax, levies on arms sales, a 'peace' tax on airline tickets, and carbon taxes; and ensuring via such methods that the preventative measures of achieving international development and security - as is the remit of the United Nations -- are bolstered.
- 2) The EU could champion the reassertion of the UN's role in the economic sphere, as envisaged in Articles 55 and 58 of the UN Charter, with the IMF, World Bank and WTO being brought firmly into the UN policy framework.
- 3) Rather than focusing on troops and equipment for the EU's Rapid Reaction Force, much more consideration should be given by the EU states to contributing to the UN's Standby Arrangements System.

#### General Comments on text

The text is based on a number of assumptions that need to be questioned:

The impression that terrorism only became a real threat from September 11th onwards. This threat has always been very real;

The belief that terrorism can mainly be defeated by military force. History shows that this is not the case.

The assumption (stated in section 32, page 10) that "all shades of public opinion are calling for security and protection and continue to be very much in favour of European defence". There are many European citizens who are not enthusiastic about European defence and its implications for increased military spending. Does this phrase in the report refer to NATO or the EU? And what does this phrase actually mean? Is 'public opinion' in favour of EU defence or European countries' individual defence structures? Does this imply that European 'public opinion' is opposed to the UN's military role in such matters?

The belief (as stated in section 6, page 2) that failure in the Balkans prompted the need "to give concrete scope to the ESDP". This is not necessarily the lesson to be taken from the Balkans. This 'failure' occurred with two military groupings already in existence in Europe: NATO and the WEU. The Balkans situation could have led to a very different reading: e.g. giving 'concrete scope' to the United Nations (through bolstering the UNSAS structures, for example).

There is a tendency to gloss over the emerging tensions in the EU/NATO relationship. There is a need to clarify whether the EU is to be subservient to NATO or if the aim is to build-up autonomous EU military capabilities. The Rapid Reaction Force is said to be ready to 'respond to international crises without prejudice to actions by NATO' (Section 7). Elsewhere we are told that countries which are also in NATO must have military capabilities which 'at the same time allow them to play a full role in NATO operations' (Section 9). The paper does not make it clear how this potential conflict is to be resolved.

Civil capabilities have been given only minimal treatment. Section 7, citing the Cologne Summit, doesn't set out the broad concept of security espoused at Cologne. Likewise, the presidency conclusions from Feira and Gothenburg also set out a fuller treatment of the civil aspects of the security question.

Specific comments on the text:

Section 7, "neither the Treaty nor the European Council conclusions place any geographical limit on the Union's action". Should not this paper make some suggestions on this issue?

Section 13, One of the listed 'critical shortcomings' is 'effective engagement capacity'. This is a vague term and should be more fully defined.

Section 14, coming under the heading of 'Institutional Developments' is too narrowly defined in that it doesn't discuss the civilian capabilities aspects and doesn't give a fuller definition of the role of the Political and Security Committee.

Section 21, under Relations with the United Nations, should be expanded. In particular, the issue of a UN mandate for EU Rapid Reaction Force peace-keeping and peace-enforcement Petersberg Tasks should be addressed. Also, the UN's Stand-by Arrangements System and the possibility of the RRF linking in with that arrangement should be more fully developed.

Section 23, under Specific Nature of Defence Matters, seems to ignore the defence implications of the Treaty of Amsterdam. Article J.13.1, does not exclude matters of defence or military implications from the constructive abstention provisions. Under Article J.13 the following applies: After the European Council has defined the principles and general guidelines of the CFSP, decisions, including decisions with military or defence implications, shall be taken by the Council acting unanimously. If a country abstains, the decision will still go ahead and the abstainer will be obliged to apply the decision and - in the case of military/defence decisions - to assist in paying for it. If the abstainer qualifies its abstention with a formal declaration ( a so-called 'constructive abstention, although this is not a treaty term) it will not have 'to apply the decision but shall accept that the decision commits the Union' and 'shall refrain from any action likely to conflict with or impede Union action based on the decision and the other Member States shall respect its position'. In this case, the 'constructive abstainer' will not have to assist the action by direct financial assistance. The Amsterdam Treaty included a new flexibility chapter, which gave the option for a group of EU states to proceed in a certain area at a faster rate than other EU states. This chapter didn't apply to the CFSP because the procedure of 'constructive abstention' amounted to the same thing.

The above has implications for Section 46 of the text. It's clear that this Section 46, under Facilitating flexibility in decision-making, is not necessary. It's already provided for under Amsterdam.

Section 25 Former neutral member states Austria, Finland, Ireland and Sweden are referred to as 'non aligned' countries. It should be acknowledged in the text that the defence implications of Maastricht, Amsterdam and Nice, as well as membership for NATO's Partnership for Peace have moved these countries away from their traditional position of neutrality towards that of 'non-alignment'

Section 30 The relationship between groupings like Eurocorps, Eurofor, and Euromafor, which are all made up of EU members, should be teased out in terms of the EU's RRF. How are these different military formations to interact?

Section 31, 32, 41 refer again to the 'the new threat' of global terrorism. It is not at all clear how a common defence/solidarity clause or increased military spending could counteract this threat.

Section 33 speaks of the need to boost investment in military research. It should not be the aim of the EU to compete with the USA in this area. The point that 'investment in research is fundamental both to ensure the efficiency of military equipment and avoid any widening of the gap for civil industry' could be countered by the abundant evidence that R and D in civil industry actually creates more jobs, as well as more useful/beneficial commodities.

Section 35 and 38: Not clear how this change in control structures would work and how the provisions in Section 35 link in with those in Section 38.

Subsection (d) of 35 has a proposal for the funding of preparatory stages of operations. It's not clear why these operations cannot be paid for in the existing way.

Section 42 is an all-embracing proposal for the mobilization of EU instruments to fight terrorism. This represents quite an extension of the EU's competence. A solidarity clause in the Constitution which amounted to a common defence would be unacceptable.

Deciding who the enemy is in 'non-state/terrorist attack can be extremely difficult. It is important that the threat of terrorism is not used as a pretext for the erosion of civil liberties or increased militarisation of the EU. Of course, solidarity in terms of humanitarian assistance is absolutely vital. This is a matter on which there would be broad agreement. However, the current treaty arrangements adequately cover defence matters.

Section 45 isn't clear as to how this supplementing of the Petersberg Tasks will affect the present tasks. Phrases like 'stabilisation' and 'defence outreach' to 'dispel hostility' appear much too broad and need to be discussed in more detail.

Section 47 and 48 are providing for a form of enhanced cooperation in the defence field. Flexibility in relation to defence decision-making is already adequately covered under Amsterdam, as previously noted.

Sections 49 to 53, envisage a European agency on armaments. The Amsterdam Treaty states that : "the progressive framing of a common defence policy will be supported, as member states consider appropriate, by cooperation between them in the field of armaments". This is the way the situation should remain.

Section 49, in particular, appears to indicate that EU states should agree a % of their GNP to be devoted to the defence budget and a certain proportion of that budget to be spent on weaponry. This would not be acceptable.