

THE EUROPEAN CONVENTION

THE SECRETARIAT

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CONV 246/02

WG VIII 1

NOTE

from :	Mr M. Barnier
to :	Members of the Convention
Subject :	Mandate of the Working Group on Defence

Please find attached a note drawn up by Mr M. Barnier, Chairman of the Working Group on Defence, detailing the mandate set out in CONV 206/02 in order to facilitate the Group's discussions.

WORKING GROUP ON DEFENCE

Question 1

1. The scope of the CFSP is defined by Article 17(1) of the Treaty. It includes "all questions relating to the security of the Union, including the progressive framing of a common defence policy,....., which might lead to a common defence, should the European Council so decide". The CFSP's scope is therefore very broad, and the objective of a common defence is set down as a possibility which could be implemented following a decision by the Council, without the need to call an IGC for that purpose. Such a decision would, however, need to be transposed in the Member States in accordance with their respective constitutional requirements.
2. Paragraph 2 of the same Article establishes that security questions include "humanitarian and rescue tasks, peacekeeping tasks and tasks of combat forces in crisis management, including peacemaking". The new geopolitical context, the fact that the security of our States was threatened by a series of conflicts in the regions surrounding Union territory, the acute awareness during the Balkans crisis that EU Member States did not have sufficient military capabilities suitable for managing crises affecting them directly, and consequently that the Union's voice at international level did not have the necessary military support, prompted the Cologne European Council in June 1999 to undertake a process of developing crisis-management capabilities.
3. However, the "Petersberg tasks", as defined in Article 17(2), do not exhaust the scope of the CFSP. Hence, following the attack on 11 September, the question arose as to whether certain actions, and if so which ones, could be undertaken by the other Member States under the Treaty in the event of a similar attack or a biological or chemical attack against a Member State.

Moreover, eleven Member States are already bound by a mutual undertaking to provide assistance under Article 5 of the Washington Treaty (NATO) and ten of them also under Article V of the Brussels Treaty (WEU).

4. *The Group should consider the question of whether an undertaking of collective defence should be enshrined in the Treaty or in a Protocol annexed thereto, possibly with an "opting-in" clause for States which might not wish to subscribe to such an undertaking as of now or which might not yet have the capabilities.*

Question 2

5. The European Council, meeting in Cologne in June 1999, decided that the Union would be equipped with the necessary means and capabilities to assume its responsibilities; in particular, it indicated that the Union must have "credible military forces". At its meeting in Helsinki in December 1999, the European Council established the "headline goal" to be achieved by 2003: on the basis of voluntary cooperation between the Member States, the Union should be able to deploy rapidly and then sustain forces capable of the full range of Petersberg tasks. This means the deployment within 60 days of up to fifteen brigades (50.000 to 60.000 forces), and within this framework to provide smaller rapid response elements available and deployable at very high readiness. They must be able to sustain such a deployment of forces – with the roulements deemed necessary – for at least a year. These forces should be militarily self-sustaining with the necessary command, control and intelligence capabilities, logistics, other combat support services and additionally, as appropriate, air and naval elements.
6. Since then, Capability Improvement Conferences have been held in Brussels, at the level of Defence Ministers, in order to oversee the process which should enable the headline goal set in Helsinki to be reached.

Careful analysis of this process shows that, although the shortfalls have been identified, adequate measures have not yet been taken to remedy them. The capabilities which the Member States are making available to the Union are those which have already been inventoried, and there is no substantial increase or improvement for the moment. Only two Member States have recently announced substantial increases in their equipment budgets. The critical shortfalls are:

- the command, control and communications system;
- strategic intelligence and the surveillance and protection of troops committed;
- strategic transport;
- effective commitment capability.

Making good these deficiencies requires investment, which may be obtained (a) by an increase in defence budgets and (b) by better use of resources (see question 6 below).

7. Sufficient military capabilities are a real credibility test for the European Union's ability to conduct crisis management operations and, more broadly, for the ability of the Member States to fulfil their obligations as regards defence.

Mechanisms should therefore be identified which ensure that the Member States meet their commitments as regards military capabilities. One possibility would be to take as a basis what has been done for Monetary Union: namely to establish strict criteria which Member States must meet if they are to be allowed to participate in the European Union's defence policy, and a "pact" which they would have to comply with thereafter. Those Member States which were unable to participate in this mechanism or which did not wish to do so could join it subsequently when they fulfilled the requisite criteria to do so.

Question 3

8. The points developed in the first and second sections above show that Member States' readiness to make progress in the defence sphere is not necessarily uniform. Some Members of the Convention have wondered how this diversity of willingness and capabilities within the European Union should be managed.
9. *Regarding crisis management, specific forms of more enhanced cooperation between certain Member States might be envisaged, allowing some Member States to undertake an operation which would benefit from the implicit support or the constructive abstention of the others, and would be considered as a European Union operation.*

In the case of mutual assistance and military capabilities, mechanisms should allow those States which have the will and the means to do so to intensify their commitments.

Question 4

10. The decision to launch a crisis management operation may, under the terms of the Treaty, be taken only by the Council. Thus the Council's decision relating to the activities of the European Union Police Mission (EUPM) in Bosnia and Herzegovina took the form of a Joint Action. Such a decision should normally define the objective(s) of the operation, a number of parameters to be respected during its implementation, and the conditions under which the High Representative, who would then chair the Political and Security Committee, would be tasked with the implementation of its political, military and police aspects. As regards these measures, the High Representative would thus act with the consent of the Political and Security Committee, which in accordance with the conclusions of the Nice European Council would exercise the political control and the strategic management of the operation.

11. The current provisions of the Treaty stipulate that decisions relating to the conduct of crisis management operations may be taken only by the Council, which must therefore either be convened urgently or adopt decisions by written procedure. Article 25 of the Nice Treaty provides that the Council may delegate decision-making power to the PSC for the duration of the operation. However, in certain circumstances, there may be a perceived need to adopt decisions very swiftly, particularly in response to requirements communicated by the operation commander.
12. The Working Group should consider ways of ensuring that decisions can be taken rapidly and effectively during the implementation of an operation and that the military leaders can identify a clear chain of command.

Question 5

13. If the crisis management operation is a military one, it will be planned by the operation commander and the operational headquarters under the authority of the Military Committee. The Committee will be assisted by the European Union Military Staff. If recourse is had to NATO resources and capabilities, the operation will be planned by Alliance structures.
14. Since the European Union has at its disposal a whole range of crisis management instruments (police, reinforcement of the rule of law, reinforcement of civil administration and civil protection, not to mention humanitarian aid), the military operation is likely to be one aspect of a more comprehensive approach comprising other parallel or consecutive components. It would therefore seem crucial to ensure that there is coherent planning of the various aspects of the European Union initiative.

15. *The Group will have to consider how to ensure that the planning of military and civil aspects (which may incidentally be covered by Title V or by the EEC Treaty and must therefore be planned respectively by the Council General Secretariat's new politico-military structures and by the Commission) is coordinated.*

Question 6

16. According to the last subparagraph of Article 17(1), "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."

There is in fact currently no cooperation on armaments at Union level. Some Member States are involved in purely intergovernmental forms of cooperation, which, however, cover only some aspects of armaments policy. Among these are the OCCAR, whose members include the United Kingdom, France, Germany and Italy, and the LoI, which includes the same four countries plus Spain and Sweden.

There is also a forum for cooperation on armaments, the WEAG, comprising 19 European countries of which 14 are members of the Union and 16 are members of NATO. In this framework, a master plan has been approved with a view to moving towards the establishment of a European armaments agency, but only when conditions are right. There are also cooperative arrangements between several European governments and the industries in their countries relating to certain major military equipment projects (e.g. EUROFIGHTER).

17. The total defence budgets of the fifteen Member States amount to EUR 170,754 billion (compared with EUR 285,257 billion dollars for the United States defence budget). If real progress is to be possible in terms of military capabilities, efforts must be made not only at defence budget level, but also at the level of procurement so as to achieve economies of scale, and at the level of arms research and development.

The Group might consider whether forms of cooperation on armaments could be incorporated into the Treaty: cooperation between all Member States? Voluntary cooperation with accession criteria?

It might also investigate the possibility of setting up an arms agency whose tasks (research, development, acquisitions) and operating methods would have to be studied in detail.

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