



**Assembly of Western European Union
The interim European Security and Defence Assembly**

DOCUMENT A/1752

18 October 2001

FORTY-SEVENTH SESSION

The parliamentary dimension of the ESDP

REPORT

submitted on behalf of the Political Committee
by Mr Eyskens, Rapporteur

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¹ Adopted in Committee by 9 votes to 0, with 3 abstentions.

² *Members of the Committee:* Mr Marshall (Chairman); MM Behrendt (Alternate: *Schlöten*), Blaauw (Vice-Chairmen); MM Baumel, Mrs Bolognesi, Sir Sydney Chapman, MM Clerfayt, Dias, Mrs Durrieu, MM Ehrmann, *Eyskens*, Fayot (Alternate: *Glesener*), Floros, Guardans I Cambó, Haack, Hordies, Hornhues, Lord Kirkhill (Alternate: *Wilkinson*), MM Kotsonis, Lacão, Lemoine, Liapis, van der Linden, Martínez Casañ, Mrs Paoletti Tangheroni, *Piscitello*, Lord Ponsonby, MM Provera, *de Puig*, Puche Rodríguez, Roseta, Schmitz, Sterzing, Timmermans, Wray, Zacchera (Alternate: *Gaburro*), N.. .

Associate members: MM Adamczyk, Akçali, Mrs Akgönenc, MM Bielecki, Eörsi, Mrs Fossli, Ms Güilek, MM Gundersen, Irtemcelik, Jaluvka, Kasal, Lobkowicz, Pálsson, Pastusiak, Pokol, Zielinski, N.. .

N.B. *The names of those taking part in the vote are printed in italics.*

ORDER 116¹

on the parliamentary dimension of the ESDP

The Assembly,

- (i) Welcoming the initiatives the Netherlands and Belgian Parliaments have taken to encourage the parliaments of the EU member states, the WEU Assembly and the European Parliament to draw up joint proposals for submission to the EU governments with a view to solving the problem of the democratic deficit within the ESDP which has arisen as a result of transferring responsibility for the exercise of Petersberg missions from WEU to the European Union;
- (ii) Welcoming more particularly the resolution on parliamentary scrutiny of the European Security and Defence Policy, adopted on 28 June 2001 by the Belgian Senate and Chamber of Representatives;
- (iii) Recalling that at the parliamentary conference held in Brussels on 2-3 July 2001 no consensus was reached on the text of a declaration to be conveyed to the Laeken European Council;
- (iv) Considering that the President of the Belgian Senate has drawn up a new proposal for a declaration on the parliamentary dimension of the ESDP for the follow-on conference to be held in Brussels on 6-7 November 2001;
- (v) Reiterating the position the President of the Assembly set out at the Brussels conference on 2-3 July 2001, which is that the Assembly can approve any solution that observes the following principles:
- parliamentary oversight of the ESDP must not fall below the standard attained in the WEU Assembly. Consequently, the obligation on the Council to produce a report and reply to recommendations and questions is an indispensable one;
 - the composition of delegations of the national parliaments in the ad hoc assembly must be proportional to the size of the member countries they represent and take account of the political spectrum in the parliaments of the various member states;
 - the setting up of committees in the proposed ad hoc assembly;
 - the new assembly must be inclusive, that is to say there must be participation by delegations of the non-EU European NATO countries and those of the EU applicant states on conditions identical to those that apply to those countries as associate members and associate partners in the WEU Assembly;
- (vi) Convinced that it would not be possible for proper parliamentary scrutiny of the ESDP to be exercised under COSAC-type arrangements or in meetings confined to the chairmen of the relevant committees in the national parliaments and the European Parliament;
- (vii) Considering that the new Belgian proposal for a declaration on the parliamentary dimension of the ESDP defers to an unspecified date the settlement of a number of important questions such as the assembly's composition and secretariat and the association of delegations of non-EU countries;
- (viii) Noting that the new Belgian proposal does not lay down a requirement for a specific legal basis for the new assembly;
- (ix) Aware of the difficulties involved in setting up a new assembly for an interim period and settling outstanding questions by virtue of what is no more than an informal arrangement, without making provision for a sufficiently sound legal or financial basis;
- (x) Convinced nonetheless that agreement on the text of the new Belgian proposal will have the distinct merit of enabling all the parliamentary institutions concerned to exert political pressure on the EU Council, this being essential to ensure that it tackles the problem of the parliamentary dimension of the ESDP in earnest;

¹ Adopted by the Standing Committee on 18 October 2001.

(xi) Stressing the importance of the presence of representatives of the WEU Assembly in the bodies that are to prepare the 2004 Intergovernmental Conference, particularly when they discuss matters affecting the role of the national parliaments in the European architecture,

INSTRUCTS ITS PRESIDENT

To convey to the Belgian Parliament a message which should contain the following points:

I.

1. The WEU Assembly, while approving the objective behind the Belgian initiative, considers that the creation of a new assembly as proposed requires a legal basis and must therefore be the subject of a provision in the Treaty on European Union or an additional protocol to that Treaty, or of another legal instrument sanctioned by the European Union.
2. However, it does not consider it realistic to envisage establishing a legal basis using one of these options between now and the next Intergovernmental Conference in 2004.
3. It also considers it unrealistic to give effect to the fundamental principles of such an assembly, as set out in paragraphs 2 and 3 of the operative text in the Belgian proposal, by means of what is no more than an informal arrangement between the parliamentary institutions concerned, particularly in view of the fact that there are still important issues to be settled concerning the composition and secretariat of the proposed assembly, and the association of non-EU countries.
4. In this respect it wishes to restate its position whereby future parliamentary oversight of the ESDP must not fall below the standard attained in the WEU Assembly.
5. It would therefore prefer to request that the new Belgian proposal be put on the agenda of the Intergovernmental Conference.

II.

1. The Assembly proposes that, over the interim period, parliamentary supervision of the ESDP should be organised on the basis of synergy between the parliamentary institutions that already exist, that is to say the WEU Assembly and the European Parliament.
2. This would require the WEU Assembly and the European Parliament to set up the machinery for cooperation, in particular by holding regular joint meetings at which the competent European Union authorities would report on the ESDP.
3. Acting in the framework of their respective competences, the two parliamentary bodies would base their work on such reports, without any amendment of the existing treaties.
4. Subject to those conditions, the Brussels Conference on 6 and 7 November 2001 should conclude with a declaration calling on the European Parliament and the WEU Assembly to draw up cooperative arrangements for that purpose and inviting the governments concerned to report to them jointly.”

EXPLANATORY MEMORANDUM*submitted by Mr Eyskens, Rapporteur***I. Introduction**

1. In order to understand the present state of affairs regarding the parliamentary dimension of the ESDP, it is important to remember that as a result of the decisions taken in Marseilles and Nice, responsibility for carrying out Petersberg tasks has been transferred from WEU to the EU. WEU has ceased its operational activities. But the EU did not incorporate in the Treaty on European Union any mutual assistance clause corresponding to Article V of the modified Brussels Treaty. The clause in that article continues to be a binding obligation for the ten signatory states of that Treaty. The activities of the Western European Armaments Group (WEAG) also remain under the auspices of WEU.

2. At its meeting in Marseilles, the WEU Council of Ministers decided to continue to meet its obligations under the modified Brussels Treaty, particularly those arising from Articles V and IX. Article IX concerns the Assembly of WEU, which continues to carry out its treaty-based tasks.

3. In future WEU's work will therefore focus on the following three main areas:

- supervision of the mutual assistance obligation laid down in Article V of the Treaty, its military implementation being guaranteed by NATO;
- armaments cooperation, and
- its function as a forum for strategic reflection and debate on European security and defence issues by the governments and parliaments of the 28 WEU nations. It is above all in this area that the WEU Assembly continues to have a special role.

WEU will also continue to be an additional instrument for the development of closer security and defence cooperation among its members as confirmed by the Nice European Council in the revised wording of Article 17 of the Treaty on European Union².

4. From now on the European Union must be able to take full responsibility for carrying out the whole range of Petersberg tasks. To that end the Nice European Council decided to create a Political and Security Committee endowed with limited decision-making powers concerning the implementation and direction of Petersberg operations, and to specify the Committee's areas of responsibility in the TEU. The European Union has also set up a Military Committee and Military Staff which have already been working for some time out of the public eye and without any proper parliamentary scrutiny.

5. Furthermore, in a declaration annexed to the Final Act of the Intergovernmental Conference, concerning the European Security and Defence Policy, the governments of the 15 EU member states agreed the following:

“In accordance with the texts approved by the European Council in Nice concerning the European Security and Defence Policy) Presidency report, plus Annexes), the objective for the European Union is to become operational quickly. A decision to that end will be taken by the European Council as soon as possible in 2001 and no later than at its meeting in Laeken/Brussels, on the basis of the existing Treaty provisions. Consequently, the ratification of the revised Treaty does not constitute a precondition.”

6. What is the situation regarding the parliamentary dimension of the ESDP which is now operational? The governments did not include it in the Nice agenda. The WEU Assembly has no remit from the European Union to supervise ESDP activities; the European Parliament's role as regards the Common Foreign and Security Policy (CFSP) is limited by Article 21 of the TEU, the text of which

² The wording of Article 17 of the TEU as revised in Nice is as follows: “The provisions of this Article shall not prevent the development of closer cooperation between two or more Member States on a bilateral level, in the framework of the Western European Union (WEU) and NATO, provided such cooperation does not run counter to or impede that provided for in this Title.”

was not amended at Nice. Under the inter-institutional arrangements agreed in 1999 by the European Parliament, the EU Council and the European Commission, deal with budgetary matters. As explained in a declaration written into the Final Act of the Conference on the Treaty of Nice, such agreements may not amend or complement the provisions of the Treaty³

7. Nevertheless, many people are now turning their attention to the European Parliament. It already has important co-decision rights in the area of civilian crisis management, especially as regards budget questions. It also has a limited right to be informed and consulted on CFSP matters. These rights should be increased in the future and set out in the Treaty on European Union. That is the only way of ensuring that the European Parliament can do its job properly.

8. But even if the EU Council were under a greater obligation to inform the European Parliament and report to it, this would only partly solve the problem of the parliamentary deficit. Why? Because the political and financial decision-making power over *military operations* under the ESDP does not lie with the European Parliament but with the individual parliaments of the member states. Nothing is going to change as regards their competence in that respect in the foreseeable future.

9. However, as far as ESDP issues are concerned, each government informs parliament on a bilateral basis only. The only way a national parliament comes to hear directly about the opinion-forming process in and perceptions of the other governments and parliaments is through occasional contacts with them on an individual basis.

10. That is why, in the WEU framework, the governments represented in the WEU Council are under a joint, treaty-based obligation to report to the Assembly, which is a collective parliamentary consultative body composed of representatives of the national parliaments of all the WEU nations. It is in this context that the national parliaments can take an overall view of European security and defence policy.

11. In the European Union there is no comparable collective parliamentary dimension for the ESDP. Although the governments transferred the executive functions of crisis management to the EU, they overlooked the parliamentary dimension. There is no doubt that as a result of this omission, democratic scrutiny as exercised by the national parliaments has suffered a blow.

12. The task now is to find an appropriate way of overcoming this parliamentary deficit. In the spring and summer of 2000 the Assembly submitted proposals for the parliamentary dimension of the ESDP, their objective being that a European security and defence assembly established within the framework of the European Union should complement the work of the European Parliament. The treaty arrangements and institutional basis for such an assembly would be separate from those of the WEU Assembly. To demonstrate its political will to take on the responsibilities of a European security and defence assembly until such time as it was given a legal and institutional basis, the WEU Assembly decided to add to its traditional title the appellation “interim European Security and Defence Assembly (iESDA)”.

13. To begin with, the response to the Assembly’s ‘Lisbon Initiative’ was very reserved. The Dutch Presidency was the first to acknowledge publicly the fact that the decisions taken in Nice have given rise to a democratic deficit in the EU, and to attempt to put the issue on the agenda of the EU Council.

³ Paragraph 40 of the inter-institutional agreement of 6 May 1999 reads as follows:

“Once a year, the Council Presidency will consult the European Parliament on a Council document setting out the main aspects and basic choices of the CFSP, including the financial implications for the general budget of the European Communities. Furthermore, the Presidency will regularly inform the European Parliament about the development and implementation of CFSP actions.

Whenever it adopts a decision in the field of CFSP entailing expenditure, the Council will immediately and in each case send the European Parliament an estimate of the costs envisaged (“financial statement”), in particular those regarding time-frame, staff employed, use of premises and other infrastructure, transport facilities, training requirements and security arrangements.

Once a quarter the Commission will inform the budgetary authority about the implementation of CFSP actions and the financial forecasts for the remaining period of the year.”

However, that has not been possible so far. But the governments cannot shirk the responsibility they took upon themselves when they adopted new arrangements in Nice at intergovernmental level which took no account of the parliamentary dimension.

14. Fortunately, the Dutch Presidency took that responsibility on board and gave its full backing to the seminar on the parliamentary dimension of the ESDP held in The Hague on 14 May and organised by the Dutch Parliament. The WEU Assembly's Presidential Committee was able to participate in that very productive seminar at which there was, for the first time, a substantive discussion between representatives of the European Parliament and the national parliaments. On the basis of an introductory paper submitted by Mr W.E. van Eekelen, the following five options were discussed:

1. Full competence for the European Parliament in the second as well as in the first pillar of the EU with reports, resolutions, budgetary power and written and oral questions to the Presidency and the High Representative. A lesser variant would be to bring the ESDP formally under Article 21.
2. Creation of a mixed Assembly, with the 15 EU states as full members but meeting at 28 and including both national parliamentarians and a sufficient number of members of the European Parliament to allow representation of the political groups and of the committees dealing with all CFSP and/or ESDP matters.
3. Continuation of the present practice of the European Parliament under Article 21 and leave the ESDP entirely to the WEU Assembly in its present form, possibly with some division of labour to avoid duplication. The status of the 15 EU states would have to be synchronised.
4. Meetings of national delegations to be informed by the country holding the Presidency (the COSAC model but consisting of members of standing committees for defence and foreign affairs).
5. No multinational oversight at all.

15. While option 5 was ruled out, option 1 was supported only by the representatives of the European Parliament. A large majority of participants did not think a COSAC-type arrangement as described in option 4 would be appropriate for making good the democratic deficit that exists under the ESDP. The discussion therefore focused on options 2 and 3.

16. Obviously, it was not possible during the seminar to bring all the different positions into line with each other. Nevertheless, the majority view was that there was a need to find solutions with a firm legal basis in the EU for ensuring the collective participation of representatives of the national parliaments in a genuine interparliamentary assembly which would discuss the work done in the field of ESDP and to which the relevant EU bodies should be accountable. The majority of the participants also agreed that such a parliamentary body must be inclusive. But no decision was taken on whether to opt for a mixed body consisting of representatives of the European Parliament and the national parliaments (option 2) or whether it would be preferable to form two separate bodies with complementary remits (option 3).

17. This discussion continued in a somewhat different form and with other participants on 2-3 July in Brussels at a parliamentary conference organised by the Presidents of both chambers of the Belgian Federal Parliament. In his capacity as President of the Belgian Senate, Armand De Decker submitted a paper containing proposals with a view to a declaration on the parliamentary dimension of the ESDP. If the participants arrived at a consensus, the idea in the Belgian Parliament was that a reference to the outcome of the conference would be included in the formal conclusions, to be prepared by the Belgian Presidency, of the Laeken European Council in December 2001. On 28 June, both chambers of the Belgian Parliament adopted a resolution on parliamentary scrutiny of the European Security and Defence Policy, which was intended to be a contribution to the July conference a few days later (see text at Appendix I).

18. Since the Brussels conference was unable to adopt a joint proposal, it was agreed that the Belgian Senate would organise a follow-up conference to be held in Brussels on 6-7 November 2001. In preparation for this conference, Mr De Decker, as President of the Senate, drew up a new proposal

for a declaration (see text at Appendix II) which takes account of what was said at the conference on 2-3 July and of the amendments tabled. The Belgian Parliament has asked for any comments on this document to be sent to it by 22 October 2001.

19. The main point in the new proposal concerns the creation, within the European Union and for an interim period pending the institutional changes in the EU that will result from the 2004 Intergovernmental Conference, of an *ad hoc* security and defence assembly whose members would be representatives of the European Parliament and of the parliaments of the member states, in other words a mixed assembly to be set up on the basis of the following principles:

- representation of each of the member states and of the European Parliament by a parliamentary delegation whose membership would have to be determined, including members of the standing committees responsible for defence matters and foreign affairs;
- organisation of at least two sessions per year;
- an obligation upon the EU Council of Ministers and the High Representative for the Common Foreign and Security Policy to submit to the assembly a written annual report on the development of the ESDP and to reply to recommendations and written and oral questions from the assembly;
- standing committees, an elected presidency and a permanent secretariat, to be strengthened as necessary by the country holding the Presidency of the European Union;
- the specific association in the new assembly of the non-EU countries concerned, according to a formula to be defined;

20. The purpose of this report is to draw up a position for the Assembly to take on this new Belgian initiative. This position is to be approved by the Standing Committee at a meeting in Brussels on 18 October 2001.

21. It is of course clear that the debate will not end with the EU summit in Laeken. However, it is important to spell out as of now some fundamental principles that will have to be defended as being essential for the future organisation of the parliamentary dimension of the ESDP.

II. Progress of the debate since The Hague and Brussels meetings and essential arguments put forward by the Assembly

22. The debate on this issue that has been going on for some time must be seen in the context of the wider and more general debate on the constitutional building of Europe. In this debate, launched by Mr Fischer's address in Berlin and followed by numerous other contributions, among which feature in particular those from Mr Chirac, Mr Védrine, Mr Juppé, Mr Toubon and the British Prime Minister, Mr Blair, the idea resurfaced of creating a second chamber separate from the European Parliament, made up of representatives of national parliaments.

23. While this idea has been given a favourable reception by some heads of state and government (such as those of Poland, the Czech Republic and Portugal), it has not found any support in the European Parliament. In the meantime the German Social Democrat party recently proposed setting up a bicameral system in the European Union and transforming the EU Council into a second chamber. Addressing members of the European Parliament, the Belgian Prime Minister, Guy Verhofstadt, supported that proposal, which is similar to an idea the President of the Federal Republic of Germany, Mr Rau, had put forward earlier in an address to the EP.

24. This debate was further fuelled by a proposal made by the French Prime Minister, Mr Jospin, during a speech on 28 May 2001 on the future of a wider Europe, to the effect that a joint body – a conference of parliaments or congress – should be set up bringing together representatives of the European Parliament and the national parliaments for the purpose of ensuring that the principle of subsidiarity was complied with and holding an annual debate on the state of the European Union.

25. Up till now, two debates on the parliamentary dimension have been going on in parallel. The first, more general debate has been referred to in the preceding paragraphs. It concerns setting up

executive and legislative structures in a European Union that must make the preparations necessary for it to be a credible political actor on the international stage and able to function properly even when it takes in all the new member states from 2003 onwards.

26. This more general debate led the heads of state and government of the 15 EU member states meeting at the Nice Summit to adopt a “Declaration on the future of the Union” in which they called for a deeper and wider debate about the future development of the European Union.

27. One of the questions up for discussion is the role of national parliaments in the European architecture. At the end of the process a new conference of government representatives of the 15 EU member states is to be convened in 2004 with a view to making the appropriate treaty changes.

28. The second, more specific debate started as a result of the transfer of responsibility for WEU’s Petersberg tasks to the European Union. It concerns a particular aspect, namely the future parliamentary dimension of the ESDP. For the moment these two debates are going on separately, with no attempt being made to establish a link between them. However, the British Prime Minister, Tony Blair, and the former Foreign Secretary, Robin Cook, have indicated that there is a link between them by proposing that the second chamber, whose creation was suggested by Mr Blair in his Warsaw address, should be concerned *inter alia* with matters relating to the European Security and Defence Policy. Subsequently, Mr De Decker pointed to the need to settle the specific problem of parliamentary scrutiny of the ESDP without losing sight of the more general debate on the creation of a second chamber.

29. However, the only person who has advocated the setting up of a second European chamber with competence *inter alia* for assuming the tasks at present undertaken by the WEU Assembly is Mr Daniel Hoeffel⁴, a member of the French Senate.

30. In assessing the Belgian Senate’s initiative, it is important to bear in mind what Mr De Decker said when presenting his discussion paper at the start of the parliamentary conference in Brussels on 2-3 July 2001. He made it quite clear that he considered the idea of a second chamber to be premature: “Perhaps the next Intergovernmental Conference which is to start in 2004 will conclude that there is a need for such a chamber. But at the present time it seems to be premature, controversial and therefore unrealistic”.

31. Logic dictates that the Belgian proposal should therefore address the question of how the parliamentary dimension of the ESDP is to be organised over an interim period which could last until a solution to this problem can be found either by including a clause in the amended Treaty on European Union or by making some other arrangement with a legal basis. And indeed, the Belgian proposal advocates the setting up, within the European Union, of an “*ad hoc*” European security and defence assembly.

32. The discussion paper submitted at the Brussels conference, the resolution adopted by the Belgian Parliament and the preliminary draft declaration were still emphasising that “democratic scrutiny ... of the ESDP must be embodied in an institution and provided for in the Treaty on European Union or in an additional protocol thereto”. But the new proposal for a declaration no longer lays down a requirement for a legal basis for the parliamentary dimension of the ESDP.

33. If this proposal were to become a reality before 2004, it would have to be on the basis of an informal arrangement which could perhaps be endorsed by a political declaration by the European Council. It is, however, very unlikely that the EU governments will wish to commit themselves to such a declaration before the next Intergovernmental Conference, as it might be seen as a precedent for settling a problem that is not due to be discussed until the conference is actually under way.

34. This raises the question of whether it is realistic to envisage creating a new assembly for the ESDP as a purely informal arrangement with no legal basis. It is perhaps feasible, if all the interested parties – the national parliaments, the European Parliament and the governments – agree to it.

⁴ See the report entitled “*Une deuxième chambre européenne*”; an information report submitted by Mr Hoeffel on behalf of the French Senate’s Delegation to the European Union, No. 381, 2000-2001 ordinary session, appended to the minutes of the sitting on 13 June 2001.

Therefore, the first thing to be done is to establish whether the revised proposal submitted by the President of the Belgian Senate would be acceptable to all those concerned.

1. The intergovernmental interlocutor

35. The WEU Assembly formulated a number of essential principles to be observed in implementing the parliamentary dimension of the ESDP. Firstly, parliamentary oversight should not fall below the standard attained in the Assembly itself. Consequently the obligation on the Council to produce a report and reply to recommendations and questions is an indispensable one. The Belgian proposal meets this demand in full.

2. Delegation membership

36. Secondly, the *ad hoc* assembly, or whatever it may be called in future, should be made up, like the WEU Assembly, of delegations from the national parliaments together with representation from the European Parliament. The size of those delegations should be proportionate to the size of the countries in question. They should also take account of the political spectrum represented in the parliaments of the various member states. Furthermore, such an assembly should have committees.

37. According to Mr De Decker's new proposal, each member state (and the European Parliament) would be represented by a parliamentary delegation "whose membership would have to be determined". It does not expressly state that the delegations should be proportional to the size of the respective member states but neither does it rule out the possibility. Nor does the proposal refer to the Assembly's wish that delegations take account of the political spectrum represented in the parliaments concerned.

38. The issue of membership of the *ad hoc* assembly is one of the most difficult and controversial problems to be addressed. The Belgian proposal in fact has a weakness in this connection inasmuch that it advocates the creation of a *third* assembly alongside the WEU Assembly and the European Parliament, a notion difficult to accept for all those who feel that there is a need to work with what already exists or indeed to reduce the number of European institutions instead of creating new ones.

39. In this respect it has to be borne in mind that the WEU Assembly is one institution that cannot be abolished because it is based on a treaty which is essential for European security. It has an irreplaceable function in supervising defence issues proper and therefore continues to be a permanent and indispensable player in any discussion concerning the parliamentary organisation of the ESDP.

40. In order to avoid the disadvantages inherent in setting up a third assembly, the resolution adopted on 28 June 2001 by the Belgian Senate and Chamber of Representatives and the first draft declaration submitted to the Brussels conference on 2-3 July 2001, provided as follows:

"The national parliamentarians sitting in the new assembly would preferably also be appointed to the WEU Assembly".

41. Furthermore, the discussion paper put forward by Mr De Decker on 20 June 2001 proposed that:

"The number of national parliamentarians from each country would be fixed in line with the rules applying in the Assembly of WEU."

In the light of the discussions at the Brussels conference, the new proposal confines itself to stating that the membership of each delegation will have to be determined.

42. This compromise attempts to reconcile the very different positions outside our own Assembly on the membership of the assembly being proposed. There is a very strong lobby advocating an interparliamentary body made up of national delegations with an *equal (and restricted) number of members*. This view was defended by Mr Quilès at the Brussels conference. The basic argument is that the ESDP is an intergovernmental policy in which decisions are subject to the rule of *consensus*, with no qualified majority voting. By that token, interparliamentary oversight of the policy could also be by consensus rather than formal voting. Hence there would be no need for parliamentary delegations proportional to the size of the respective member states.

43. There are many advocates of this line of thought in COSAC, the meetings of chairmen of defence committees of European Union member parliaments and the European Parliament. A further view is that developed by French Senator Daniel Hoeffel in his abovementioned report⁵, which argues for the second chamber he proposes to be made up of member state delegations of equal strength, so as not to undermine the position of the smaller states. The senator goes on to propose that COSAC should merge with such a new parliamentary institution.

44. If the WEU Assembly is to not to lose credibility as the only European parliamentary institution with long experience in supervising security and defence questions, it must maintain its argument that such supervision can be exercised only by a European interparliamentary institution made up of national parliamentary delegations whose size is proportional to that size of the countries they represent and which takes account of the political spectrum in those countries. In an assembly that adopts operative texts such a balance is essential if those texts are to have any value and political impact.

45. While it can be assumed that there is unanimous agreement on these principles within the WEU Assembly, discussions among its members show that positions differ and are at times controversial as regards other questions concerning the composition of a future interparliamentary institution responsible for overseeing the ESDP. Some parliamentarians want members to be the same as those who sit in the WEU Assembly while others have reservations on this point.

46. Then there are others who want to take advantage of the present situation to do away with the constraint created by Article IX of the modified Brussels Treaty whereby parliamentary delegations representing the WEU member countries in the WEU Assembly are the same as those representing their countries in the Parliamentary Assembly of the Council of Europe. However, it has to be realised that in any initiative advocating a revision of Article IX there is a danger of calling into question the solid legal bases that justify the existence of the WEU Assembly.

47. Some parliamentarians consider it of the utmost importance that members of the foreign affairs and defence committees of the national parliaments are part of any future interparliamentary assembly. Furthermore, during the discussion that took place at the Political Committee's meeting in Brussels on 12 September 2001, some members asked that members of the European affairs committees in the national parliaments should also be included. Given that there are so many different views, some parliamentarians are in favour of leaving it up to the national parliaments to choose who should belong to their delegations, according to the arrangement they prefer.

48. The main advantage of the members of the *ad hoc* assembly being one and the same as those of the WEU Assembly would be that of providing an easy solution which avoids the creation of an additional body. It would also make things easier in terms of the idea floated by Mr Behrendt, at the Brussels conference, which consisted of forming an assembly made up of an inner and outer circle, with all the European Union states as the inner circle and the non-member states as the outer one. However, in view of the very different positions put forward by interested parties, it will be very difficult to find a common approach.

49. The very general wording of the new proposal leaves the door open for any possible option and in view of the differences in the positions expressed at the conference held in Brussels on 2 July 2001 as regards the size and membership of delegations, the form of words suggested is perhaps sensible. However, an assessment must also be made of the effect of the deletion of former paragraph H, indent 2 of the preliminary draft declaration, stating that COSAC-style models or meetings of only the chairmen of appropriate national parliamentary committees were insufficient.

50. Given the heavy lobbying there will be from both the European Parliament and supporters of the ideas put forward by Mr Quilès, it is essential for the Assembly to affirm its determination not to give way on its position that the size of delegations should be proportional to the size of the respective countries, or on the need for delegations to reflect the political spectrum in their parliaments.

⁵ See paragraph 29.

51. With regard to the committees the *ad hoc* assembly would need, the new proposal meets the Assembly's essential demands in full.

3. The inclusivity principle

52. Thirdly, the Assembly insisted on the need for the *ad hoc* assembly to be inclusive. In this connection the new proposal argues for the direct association in the new assembly, "according to a formula to be defined" of the non-EU members concerned. At this stage, such a formula seems satisfactory, but it must be expected that difficulties will arise when the time comes to define specifically the arrangements for association of the delegations concerned. In this connection it should be noted that the Assembly has always insisted on the need for those delegations to have the same rights in the new assembly as those they acquired as associate members and partners in the WEU Assembly.

53. The new proposal, whereby the presidency of the *ad hoc* assembly would be an elected one, is a distinct improvement over the earlier one which envisaged that the presidency would be held alternately by a European and a national parliamentarian.

4. The role of the traditional WEU Assembly

54. Finally, there is a need to ensure that parliamentary supervision of the functions still retained by WEU (Article V, armaments cooperation, general strategic reflection) continues to be carried out by the WEU Assembly and here one can be assured that point H of the new Belgian proposal maintains that aspect of the latter's role in full. In short, the revised document is in line with the essential arguments developed by the Assembly even though some points require clarification in the light of discussions that have taken place since it was drawn up. However one must first evaluate to what extent the revised wording is likely to achieve consensus among all the other interested parties.

5. The position of other interested parties

55. The first objection that might be raised could come from the European Parliament. The Belgian paper states that the European Parliament's powers in the area in question are limited by Article 21 of the Treaty on European Union and that responsibility for the democratic dimension and supervision of the ESDP cannot therefore lie solely with the EP.

56. The European Parliament has changed its position on this matter a number of times. In a resolution it adopted on 15 May 2000, it noted that there was "a serious democratic deficit with regard to the CESDP". But it has since increasingly tended to maintain that there is no such deficit. This view has been expressed mainly by Mr Brok, Chairman of the Committee on Foreign Affairs, Human Rights, Common Security and Defence Policy. For instance, in the French version of its resolution of 30 November 2000 on "the establishment of a Common European Security and Defence Policy after Cologne and Helsinki", the European Parliament states that "*with its current powers*" it is "able to assume the supervisory function carried out by the WEU Assembly".

57. Finally, the Committee on Foreign Affairs, Human Rights, Common Security and Defence Policy opined as follows on the report produced by the European Parliament's Committee on Constitutional Affairs on "the Treaty of Nice and the future of the European Union", adopted on 4 May 2001:

"There is no doubt that the EP must exercise parliamentary control of the "Petersberg Tasks" at European level. In practice, this is *satisfactorily* exercised under the provisions of Article 21 TEU via regular reports by the Council Presidency after each GAC meeting, and by *Mr Solana's quarterly appearances before the Foreign Affairs Committee and the Plenary of the EP*, as well as through the role of the EP as budget authority. Additional and reinforced parliamentary control is exercised by the EP via its own functions within the first pillar for civil crisis management.

Given the EP's clear *budgetary* and control competencies in ESDP/CFSP, there is no "gap" caused by the integration of certain WEU-tasks into the EU framework. *Thus, and contrary to the views expressed by the WEU Assembly, there is no need for a new "Interim" European Assembly for the ESDP.*"

58. In the same paper the Foreign Affairs Committee recognises that "National Parliaments continue to keep and exercise their own competencies as far as military spending and operational questions of its own armies are concerned. *A closer relationship with them on CFSP/CSDP issues is therefore necessary.*"

59. However, it is not quite clear which objective the European Parliament is pursuing in advocating such a relationship with the national parliaments. In its resolution of 15 June 2000 it refers to the need to "maintain a link between the level at which decisions on the CESDP are taken and the level at which the appropriations are adopted". It "proposes, therefore, that, within the framework of the CESDP and on the basis of the COSAC's experience, a European interparliamentary body on security and defence should be set up, comprising European and national MPs responsible for security and defence issues and possibly also representatives from the parliaments of the applicant countries and the WEU associate countries".

60. In its resolution of 30 November 2000 the European Parliament also refers to its proposal that "within the framework of the CESDP and on the basis of experience with COSAC, a European parliamentary body for security and defence should be set up to correspond to the broader framework of European security". How can this proposal be compatible with the statement made at the same time to the effect that the European Parliament is already able with its current powers to assume the supervisory function carried out by the WEU Assembly?

61. It emerges from the explanatory statement in the European Parliament's report on "the establishment of a Common European Security and Defence Policy after Cologne and Helsinki" that two main considerations led the EP to propose an interparliamentary body on security and defence: the first was its concern to provide a parliamentary framework within the European Union for WEU's associate members and associate partners and other EU applicant states; the second was its desire that there should also be a framework for members of the national parliaments of the 15 EU member states.

62. On this particular point the European Parliament's proposal is similar to the WEU Assembly's Lisbon Initiative and Recommendation 666 and to the Belgian Senate's initiative. But opinions differ in that the European Parliament is advocating a COSAC-type arrangement which the WEU Assembly and the Belgian Parliament consider insufficient. Why would such an arrangement be unsatisfactory? Its main drawbacks can be summed up as follows:

- COSAC is an interparliamentary conference, not an assembly in the proper sense;
- it is made up of delegations which are not representative;
- it has no elected presidency or independent secretariat;
- it cannot set its own agenda;
- it cannot set up committees able to draw up their own texts for submission to a plenary session;
- it operates solely on the basis of consensus and therefore has no provision for a formal vote on any proposals it draws up;
- it has no interlocutor since the Council is not accountable to it and has no obligation to reply to any proposals it may make;
- delegations of non-member countries have observer status only and even then such status is subject to the EU having opened accession negotiations with the countries in question.

63. The Brussels parliamentary conference held on 2-3 July provided a good opportunity for finding out more about the present position of the European Parliament representatives who attended the start of the debate. The President of the European Parliament, Mrs Fontaine, stated clearly that for the time

being “we [the European Parliament] did not consider that we had to rush into adopting a position on the institutional choices”. On the other hand Mr Brok, the Chairman of the Committee on Foreign Affairs, Human Rights, Common Security and Defence Policy, made clear his view that:

“ ... the solution is not to assign to yet another assembly ... the task of making recommendations on the basis of an annual report submitted by the EU Council and the High Representative for the CFSP.

... The problem we have to solve is that we should inform each other about our respective levels so that we are, each of us, capable to do our own homework well: the European Parliament vis-à-vis the European Executive and the national parliaments vis-à-vis the national executive.”

... We have submitted proposals based on the existing meetings of chairmen of foreign affairs committees and of defence committees, for arriving at a structure that would enable us to make some progress in these areas. I would like to cite here Mrs Lalumière verbatim, which is more practical, so that there are no misunderstandings: ‘Records in this context the Parliament’s resolution of 15 June 2000 on the establishment of ESDP with a view to the European Council meeting in Feira, and proposes in the context of CFSP and ESDP the regular holding of a meeting bringing together representatives of the competent committees of the national parliaments and the European Parliament with a view to examining the development of the two policies, jointly with the Council presidency, the High Representative for the CFSP and the Commissioner responsible for external relations. Considers that it would be desirable, subject to certain conditions, to involve the Parliaments of the applicant countries and those of non-EU countries that are members of NATO under the same conditions⁶’.

... The regular holding of a meeting is different from creating a new parliamentary assembly.”

64. There is no suggestion therefore that the European Parliament is going to approve Mr De Decker’s proposal for the creation of an *ad hoc* assembly if it has no major reason for a change of heart between now and the end of this year. Furthermore, other interested parties are also likely to disagree with the proposal. They use the opposite arguments, calling into question the readiness of some national parliaments and governments to agree to the European Parliament being given powers, through the proposal for its participation in the mixed *ad hoc* assembly, which governments were not willing to grant it in the framework of Article 21 of the TEU.

65. These arguments were advanced at the Brussels conference, *inter alia* by Mr Bruce George, member of the Select Committee on Defence of the British House of Commons, who quoted British Prime Minister Tony Blair on the subject. Other participants at the Brussels conference expressed reservations, letting it be understood that the creation of a new parliamentary structure would be premature, bearing in mind other existing parliamentary assemblies.

66. Given the circumstances, a dual approach is needed: the first must involve analysis, if the proposed new text is adopted in its existing form, as to whether it can satisfactorily meet the essential interests supported by the WEU Assembly. Secondly, provision must be made for other solutions, in the event of its not being approved at the forthcoming Brussels meeting or modified so as to render it unacceptable to the Assembly.

III. Detailed analysis of the new proposal submitted by Mr De Decker

67. A. “*Welcoming the development of the European Security and Defence Policy (ESDP) and the creation of structures allowing the European Union to implement a policy of conflict prevention and civil and military crisis management, in particular by carrying out Petersberg-type missions;*”

Observation: The wording is identical to the corresponding paragraph of the Belgian Parliament’s preliminary draft declaration and draft declaration and is acceptable.

⁶ The version of the text quoted by Mr Brok does not correspond to the text of the EP Resolutions in question issued by the European Parliament on 15 June and 30 November 2000 and quoted in paragraphs 50 and 60 of this report.

68. “*B. Aware that the ESDP is, as things stand, intergovernmental, and in particular that the defence budgets and operational military decisions necessary for the implementation of that European policy fall within the remit of the nation states;*”

Observation: The wording corresponds to the draft declaration submitted during the Brussels conference on 2-3 July 2001. The Belgian resolution and the preliminary draft declaration read respectively “... will continue for an as yet unspecified period within the remit of the nation states ...” and “... will continue to fall, for a long time to come, within the remit of the nation states ...”. The new text is based on amendments by Mr Anderson and is acceptable.

69. “*C. Considering that responsibility for the democratic dimension and supervision of the ESDP cannot therefore lie solely with the European Parliament and noting that the latter’s competences in this regard are restricted by Article 21 of the Treaty on European Union, which on the one hand places an obligation on the Council Presidency to consult and inform the European Parliament on the main aspects of the Common Foreign and Security Policy and on the other gives the European Parliament the power to ask questions of the Council or make recommendations to it;*”

Observation: This wording was introduced into the draft declaration submitted at the Brussels conference as a result of an amendment proposed by Mr Quilès. The Belgian resolution and the preliminary draft declaration are worded:

“noting that the Parliament’s competences in the regard are restricted by Article 21 of the Treaty on European Union, which confines the obligation on the Council to the Presidency to having only to inform the European Parliament”.

This was in fact a more accurate description of the situation but the new text is correct also.

70. “*D. Aware of the powers of the European Parliament as regards the use of civil crisis-management instruments available to the European Union;*”

Observation: This form of words was introduced by Mr De Decker following an amendment proposed by Mr Quilès. It correctly describes the existing situation and there is no reason to oppose it.

71. “*E. Recalling that the constitutions of the Member States of the European Union confer upon their parliaments the task of exercising democratic scrutiny over security and defence policies, even where these are implemented within the framework of the ESDP;*”

Observation: This form of words was introduced by Mr De Decker, following an amendment by Mr Quilès.

72. “*F. Aware that each national parliament has difficulty in obtaining a European overview of the EU’s security and defence policy, while the ESDP must be discussed as a matter of priority at European level, given that the basic principles underlying the European Union’s Common Foreign and Security Policy will in future considerably reduce the possibility of conducting purely national conflict-prevention and crisis-management policies on which agreement has not been reached in advance at European level;*”

Observation: The earlier texts employed the plural “The national parliaments themselves, by definition, have no European overview ...”. The new wording is a distinct improvement.

73. “*G. Stressing that a common European approach is particularly essential for military operations, hence the need for joint reflection on such matters and comparison of national defence budgets and requirements on a European scale;*”

Observation: Approval should be given to this form of words, already present in the earlier texts.

74. “*H. Aware that the WEU Assembly will continue to exist for as long as the modified Brussels Treaty remains in force and will continue to monitor Article V (on collective defence) and armaments cooperation, but also aware that, as matters stand, the Assembly has no mandate from the European Union to ensure oversight of the ESDP;*”

Observation: The earlier texts made no reference to the WEU Assembly's mandate as regards monitoring armaments cooperation. Furthermore the preferred wording then was "... taking the view that that Assembly – in its present make-up of 10 or 28 countries – is not suited for parliamentary scrutiny of the policy carried out by the Fifteen EU member states". The wording of the new proposal is a distinct improvement.

75. *I. Considering, however, that it is essential to continue to involve the non-EU European NATO countries and the WEU associate partner countries, which are neither NATO nor EU members but applicants for accession, in the European Security and Defence Policy, thus preserving one of WEU's principal acquis;*

Observation: The wording follows that used in the preliminary draft declaration and the draft declaration. However the resolution adopted by the Belgian Parliament made reference to "the WEU Assembly's ... *acquis*". The new text is better because it refers to the *acquis* of WEU as a whole.

76. *"J. Noting, in short, that there is undoubtedly a major democratic deficit with regard to the ESDP;"*

Observation: This wording was already present in the Belgian Parliament resolution and the preliminary draft declaration. It was deleted however in the draft declaration submitted to the Brussels conference. It is to be welcomed that it has reappeared in the new proposal given its major political significance.

77. *"K. Aware that the role of the national parliaments in the European architecture is one of the questions to be addressed in the Laeken Declaration, with a view to the next Intergovernmental Conference scheduled for 2004;"*

Observation: The text is completely new. In view of the importance of the Intergovernmental Conference, this new paragraph should be approved.

78. *"L. Recalling the lessons learned from the seminar on the parliamentary dimension of the ESDP held on 14 May 2001 at the Dutch Parliament in The Hague and organised on the initiative of the Netherlands section of the European Movement, and welcoming the adoption by both chambers of the Belgian Parliament on 28 June 2001 of a resolution on the parliamentary scrutiny of the European Security and Defence Policy;"*

Observation: This paragraph existed already in the earlier versions and was amended following the adoption of the Belgian resolution. A reference to the lessons drawn from the Brussels conference of 2-3 July 2001 might be included.

79. *"[We, parliamentarians ...]1. Recommend that, for an interim period pending the institutional changes in the European Union that will result from the 2004 IGC, there should be a European collective, that is to say transnational, parliamentary dimension and system of supervision that will enable national parliamentarians to form a common view on the needs of the European Security and Defence Policy, in association with the European Parliament, which has an obvious and central role to play in the development of the EU;*

Observation: The wording of the resolution and the preliminary draft declaration was as follows:

"Urges the organisation of a form of European collective – in other words transnational – parliamentary scrutiny ..."

Following the Brussels debate the draft declaration substituted "overview" for "scrutiny". The wording of the new text is "parliamentary dimension and system of supervision", which is entirely acceptable. The important thing is for the declaration to show clearly that it is not a question of scrutiny but of a consultative function.

80. However it is worth noting that the new proposal's specification that the proposed arrangement should be "for an interim period pending the institutional changes in the European Union that will result from the 2004 IGC" is highly significant. The original text was capable of being interpreted as a

medium or longer term demand, possibly as the outcome of the next Intergovernmental Conference. The new approach covers only the period between now and 2004. Under the circumstances one might ask on what basis a proposed “interim” arrangement of this nature could be achievable.

81. Such questions are the more justified since the new proposal omits any reference to paragraphs 2 and 3 of the Belgian resolution and the preliminary draft declaration, which were deleted following an amendment by Mr Quilès. The paragraphs in question read as follows:

“2. Considers that COSAC-style models, or meetings of the chairmen of appropriate national parliamentary committees and committees of the European Parliament, alone cannot fully meet that objective;

3. Is convinced that parliamentary scrutiny of the ESDP should primarily be undertaken by the representatives of European Union member states and that such scrutiny must be embodied in an institution and hence provided for in the Treaty on European Union or in an additional protocol thereto;”

82. Since the new proposal no longer lays down a requirement for a legal basis, one can ask whether it is realistic. In point of fact the answer to this question depends on the wording of the subsequent paragraphs in the new Belgian proposal.

83. “2. Accordingly advocate the setting up, within the European Union, of an *ad hoc* security and defence assembly on the basis of the following principles:”

First indent:

– “*representation of each of the Member States and of the European Parliament by a parliamentary delegation whose membership would have to be determined, including members of the standing committees responsible for defence matters and foreign affairs;*”

Observation: The wording of the Belgian resolution was as follows:

“Such an assembly would comprise the members of the European Parliament’s Committee for Foreign Affairs, Human Rights, Common Security and Defence Policy and national parliamentarians from the EU member states, their number being fixed in line with the rules applying in the Assembly of WEU.

The national parliamentarians sitting in the new assembly would preferably also be appointed to the WEU Assembly.

The Chairmen of the Foreign Affairs and Defence Committees of the national parliaments would automatically be part of the new assembly.

...

Within the assembly, national and European members would form groups according to political persuasion rather than nationality.”

84. The preliminary draft declaration had amended the last part of the first indent as follows: “... their number being fixed in line with the rules applying in the Assemblies of the Council of Europe and of WEU”. Following amendments submitted by Mr Quilès and Mr Davis, the relevant paragraph of the draft declaration read:

– “representation of each of the Member States and of the European Parliament by a parliamentary delegation with a limited number of members, mainly composed of members of the standing committees responsible for defence matters and foreign affairs;”.

85. This wording would have made it difficult to achieve the aim supported by our Assembly of delegations from national parliaments proportional to the size of the countries concerned. It would also have removed the option of members of the WEU Assembly and of the new assembly being one and the same. As noted in paragraph 49 above, the new proposal leaves the door open for all options.

86. Second indent:

- *“organisation of at least two sessions per year;”*

Observation: This indent was inserted following an amendment submitted by Mr Quilès. Since it is fully in line with WEU Assembly *acquis* it should be supported.

87. Third indent:

- *“an obligation upon the EU Council of Ministers and the High Representative for the Common Foreign and Security Policy to submit to the assembly a written annual report on the development of the ESDP and to reply to recommendations and written and oral questions from the assembly;”*

Observations: This form of words existed already in the resolution adopted by the Belgian Parliament and in the preliminary draft declaration. Deleted from the draft declaration following an amendment by Mr Quilès, its reinstatement in the new proposal is to be welcomed. It is fully in line with the Assembly’s wish that the new assembly should have an intergovernmental interlocutor in the European Union, with responsibility for reporting back to it. In this connection, it is important to make clear that the crux of the matter is the report from the *Council*, not from the High Representative. Moreover, Mr Behrendt’s suggestion of dividing the annual report in two half yearly sections, as has been the custom in WEU, is one that could be put forward.

88. Fourth indent:

- *“standing committees, an elected presidency and a permanent secretariat, to be strengthened as necessary by the country holding the Presidency of the European Union;”*.

Observation: Setting up standing committees is one of the essential demands of the WEU Assembly. The insertion of this provision – not present in the earlier texts – in the new proposal is to be welcomed. Also the provision for an elected presidency represents a distinct improvement over previous versions. As to the matter of the secretariat, it should be noted that the Belgian Parliament resolution and the preliminary draft declaration had employed the following wording:

- *“In order to avoid unnecessary expense and to profit from the experience gained by the WEU Assembly over fifty years, the Office of the Clerk to the new European assembly could be common to it and the Assembly of WEU.”*

Seen against Mr Quilès’s amendment proposing that the secretariat be provided by the country holding the presidency of the European Union, the new wording is a compromise. In this connection it should be remembered that during the Political Committee’s discussion of the working paper on 12 September in Brussels, several members stressed the importance of having an independent and properly organised secretariat, which could not be provided either by a single country or by the European Parliament.

89. *“3. Urge, furthermore, the specific association in the new assembly of the non-EU countries concerned, according to a formula to be defined;”*

Observation: This form of words is based on an amendment submitted by Mr van Eekelen replacing the earlier wording contained in the Belgian Parliament resolution and the preliminary draft declaration, which read:

“Urges, furthermore, the creation of a pan-European forum for discussion of ESDP matters, which might either be the WEU Assembly or be created by associating the non-EU countries concerned, directly to the newly constituted assembly, according to arrangements yet to be defined.”

90. The new form of words is more advantageous to the delegations of the countries in question but it is still very vague since it does not specify what kind of association is meant. The Assembly should therefore insist on its demand that the delegations in question have the same rights as those they acquired as associate members or associate partners in the WEU Assembly.

91. “4. Adopt the present text as a contribution to the declaration to be adopted by the Laeken European Council.”

Observation: The wording, which is new, is especially important since it allows a certain legal scope to be given to the project envisaged. It should be noted in this connection that the new proposal no longer lays down a requirement for a legal basis and relates only to a transitional period, between now and the next Intergovernmental Conference in 2004. However, a purely informal arrangement of this sort will only work if it has the backing, politically at least, of the governments of the Fifteen. It is therefore important to urge that the Laeken Declaration include at the very least a paragraph confirming the setting up of an *ad hoc* assembly, expressly referring to the basic principles set out in point 2 of the new proposal. In view of the different opinions held within the governments and parliaments on the various issues concerning the parliamentary dimension of the ESDP and, more generally, the role of national parliaments in the European architecture, it is highly unlikely that at Laeken the governments will risk making such a clear-cut declaration regarding this particular area. However, even if the European Council were to make the wording of point 2 its own, many questions would still have to be settled before the *ad hoc* assembly could begin work, the main one being the membership of delegations and the second the involvement of non-EU countries. There would also be other matters that needed ironing out.

92. There is no doubt that it will not be easy to settle all these problems and any solution will have to be based on sound legal instruments. Given that what is being envisaged are new structures endowed with new responsibilities, an arrangement in this area cannot be concluded on the basis of goodwill alone.

93. But the Belgian initiative is admittedly an important means of exerting pressure on the governments to tackle the problem of the parliamentary dimension of the ESDP. As such, it should have the support of the Assembly. However, in view of the unlikelihood of the initiative meeting with success as an interim solution, it would be preferable to request that the Belgian proposal be put on the agenda of the 2004 Intergovernmental Conference.

94. There are a number of reasons for such an approach. Not least, the new Belgian proposal carries the risk being rejected by governments or certain parliaments on several counts such as reluctance in some quarters to agree to the creation of a third assembly, funding difficulties, the absence of a legal basis and the fear of setting a precedent during the interim period.

95. It is therefore expedient to draw up options that will ensure that the parliamentary dimension functions properly over the period between now and 2004, a period that might last longer if the parties concerned cannot reach agreement at the Intergovernmental Conference on a satisfactory arrangement based on a legal instrument in the European Union framework.

IV. Options for the interim period

96. A pragmatic solution would be to base parliamentary oversight of the ESDP on the parliamentary institutions that already exist. These are, above all, the WEU Assembly and the European Parliament.

97. There is a treaty-based justification for the existence of the WEU Assembly which must be confirmed. The treaty gives the Assembly competence to supervise the implementation of all the objectives the High Contracting Parties specified as being the subject of their cooperation, namely:

- the defence of ideals proclaimed in the United Nations Charter;
- the preservation of the principles of democracy, personal freedom and political liberty and the rule of law;
- the resolve to afford assistance to each other in maintaining international peace and security and in resisting any policy of aggression;
- the resolve to promote unity and encourage the progressive integration of Europe;

- the obligation on the High Contracting Parties, if any one of them should be the object of an armed attack in Europe, to afford that Party all the aid and assistance in their power;
- the obligation to strengthen peace and security in the member countries;
- the commitment according to which at the request of any of the High Contracting Parties they shall consult with regard to any situation which may constitute a threat to peace, in whatever area this threat should arise;
- the commitment to work in close cooperation with NATO in the execution of the Treaty.

98. The European Security and Defence Policy being developed within the framework of the European Union is at the very centre of the subjects covered by the modified Brussels Treaty. Consequently, it goes without saying that the WEU Assembly has the competence to exercise the parliamentary function of supervising that policy. Furthermore, the Assembly carries out its work in a configuration involving no fewer than 28 delegations which could easily be increased to 30 so as to form the parliamentary corollary of the single structure for dialogue and cooperation that the EU Council has established at 15+15 and 15+6 with the non-EU European members of NATO and other EU applicant countries. The WEU Assembly should therefore be used proactively so that it can continue to carry out its traditional functions and at the same time further the cooperation it has established with the delegations of non-member countries. This is WEU's principal *acquis* and it should be put to good use.

99. However, the ESDP is not one of the areas for which the WEU Council is responsible and the Assembly has no mandate from the European Union to oversee the EU Council's activities in this area. Conversely, the EU Council is not under any contractual obligation to the European Parliament as far as the ESDP is concerned, even though the Parliament gives a very broad interpretation to the competences assigned to it in Article 21 of the Treaty on European Union.

100. In the present situation the governments are therefore under no obligation at all to report on their activities in this area to a transnational European parliamentary institution. While this situation is perhaps convenient for the governments, it is wholly unacceptable to both the WEU Assembly and the European Parliament. How can the governments be persuaded to agree to an appropriate procedure for reporting to parliamentarians without changing treaties and institutions?

101. There is a chance that if the relevant parliamentary institutions were jointly to exert political pressure, the governments would be prepared to report on the ESDP in a more systematic and structured manner than is currently the case. For that to happen would require an arrangement to be set up between the national parliaments, represented by the WEU Assembly, and the European Parliament for the purpose of establishing synergy between them and organising, on an informal basis, interparliamentary supervision of the ESDP from which both parliamentary assemblies could benefit while retaining their respective areas of competence.

102. To achieve that objective would require the holding of regular meetings of the WEU Assembly with the participation of a sizeable European Parliament delegation which would receive a report from the Council on the ESDP. Taking such a report as their basis, the WEU Assembly and the European Parliament would carry out their work and draw up their proposals separately within the framework of their respective competences and rules.

103. For such an arrangement to become a reality, it is essential for the European Parliament to demonstrate a political will to cooperate with the WEU Assembly. That political will does not at present exist because the European Parliament continues to assume that the modified Brussels Treaty, and with it the WEU Assembly, will in due course be abolished and to nurture the idea of taking over all the Assembly's responsibilities.

104. But there is no certainty at all that a situation will ever arise in which the governments decide collectively to denounce that treaty and transfer Article V to the Treaty on European Union. Neither is there any indication that the governments of the 15 EU member states will be prepared to amend Article 21 of the Treaty on European Union in 2004 so as to put the Council under an obligation to

report on its activities under the ESDP to the European Parliament, or a mixed interparliamentary body or a body consisting of representatives of the national parliaments.

105. In the meantime the European Parliament's involvement in the ESDP will continue to be governed by the provisions of Article 21 of the TEU, which merely obliges the Presidency (and the Commission) to keep it informed of the development of the CFSP but does not imply any accountability towards the Parliament on the part of either the Council as a whole or the High Representative for the CFSP.

106. However, if the WEU Assembly and the European Parliament were to agree to the idea of jointly exerting pressure on the governments to intensify their dialogue with these two parliamentary bodies with competence for the CFSP and ESDP, the democratic dimension would be considerably strengthened to the benefit of both the national parliaments and the European Parliament.

107. A pragmatic solution would therefore consist in the WEU Assembly and the European Parliament making a joint approach to the WEU Council and the Council of the European Union to propose that sessions of the Assembly and the Parliament and meetings of their relevant committees be used as opportunities for their parliamentary members to attend joint meetings which would be concerned exclusively with discussions on the ESDP on the basis of hearings of the Council and the Secretary-General of WEU, High Representative for the CFSP.

108. These joint meetings should be held regularly and at least three times a year – twice at ordinary sessions of the WEU Assembly and once on the occasion of the annual debate the European Parliament holds on progress made in implementing the Common Foreign and Security Policy.

109. To implement such a solution would require arrangements for cooperation between the WEU Assembly and the European Parliament under which a large group of representatives from the EP could participate, under procedures yet to be determined, in the work of the former and vice versa. Such cooperation should be extended to the work of the committees and political groups.

110. In this context Mr Behrendt's idea of a parliamentary overview of the European Security and Defence Policy working in concentric circles might be taken up. This approach would have the advantage of dispensing with the need for new delegations with a different membership. The WEU Assembly would be the inner circle with responsibility for scrutinising implementation of the modified Brussels Treaty, particularly Article V, and other functions remaining within WEU's area of responsibility.

111. The same Assembly "at 15", strengthened by a European Parliament delegation, could form the circle responsible for supervision of the European Security and Defence Policy. Finally, an enlarged circle in a 15+6 and/or 15+15 configuration, in which European Parliament members would also take part, would have the task of overseeing government activities in the framework of the single structure for ESDP dialogue, consultation and cooperation created in Nice and comprising the 15 EU member governments and the governments of the EU applicant countries.

112. In view of the fact that this very flexible arrangement involves parliamentary institutions that already exist and does not in any way constitute a precedent for settling the problem of the ESDP parliamentary dimension in the future, there is perhaps a chance of convincing the governments of the Fifteen to persuade the Council of the European Union to report, on a provisional basis, to such an assembly made up of concentric circles and constituting its parliamentary interlocutor.

113. Another possibility would be to maintain the current practice of the European Parliament and the Assembly continuing to work separately on the basis of their respective competences, possibly by some form of division of labour (Mr van Eekelen's former option 3 discussed at The Hague seminar). However the problem with this option is that it implies that the Council of the European Union would have to be prepared to allow the WEU Assembly to supervise the military dimension of the ESDP and provide it with the information it would require for that purpose, while the European Parliament would concentrate on the civilian aspects of the ESDP.

V. *Conclusions*

114. Since the Lisbon Initiative, a growing number of parliaments and governments have recognised the fact that a democratic deficit has arisen as a result of transferring WEU's operational functions to the European Union. The meetings held on 14 May in The Hague and 2-3 July in Brussels enabled participants to hold an initial round of interparliamentary discussions with a view to finding fair solutions for solving the problem of that deficit. What clearly emerged from those discussions were a number of points as described below.

115. First, the parliaments of the WEU and EU member states are showing an increasing interest in this subject as they consider it important to be involved in the question of how the parliamentary dimension of the CFSP, ESDP and European affairs is to be organised in the future. Second, there is a concern among the parliaments of the non-EU European members of NATO and the EU applicant countries not to be sidelined and lose the status they acquired as associate members and associate partners in the WEU Assembly.

116. Third, the discussions brought to light the problems involved in harmonising all the interests and various initiatives emanating either from conferences of the presidents of European assemblies, or from COSAC sessions, or from meetings of the chairmen of foreign affairs and defence committees. Fourth, there is some reluctance on the part of the European Parliament to adopt a definitive position on the institutionalisation of collective participation by the national parliaments in the activities of the European Union.

117. In the light of the above, the new Belgian proposal is a compromise that can be said to be satisfactory for the WEU Assembly for the time being because it takes on board most of the essential arguments the Assembly has put forward, and where this is not the case comes up with proposals that do not exclude them. The adoption of the Belgian proposal by all the participants at the conference on 6-7 November would be a step in the right direction in that it would be a way of exerting political pressure on the governments to give serious consideration to the problem of the parliamentary dimension of the European Security and Defence Policy, but if the aim is to ensure that an appropriate solution is found to the questions outstanding and that they are given a legal basis, it is preferable to submit this proposal as part of the basis for the negotiations that are to be held at the 2004 Intergovernmental Conference. This would give all the interested parties sufficient time to think through the important details that remain to be settled.

APPENDIX I

***Resolution on parliamentary scrutiny of
the European Security and Defence Policy***

Adopted by the Belgian Senate and Chamber of Representatives on 28 June 2001

The Federal Advisory Committee on European Affairs,

- A. Welcoming the development of the European Security and Defence Policy (ESDP) and the creation of structures allowing the European Union to implement a policy of conflict prevention and civil and military crisis management, in particular by carrying out “Petersberg” type missions;
- B. Aware that the ESDP is, as things stand, intergovernmental, and specifically that the defence budgets and operational military decisions necessary for the implementation of that European policy will continue to fall, for an as yet unspecified period, within the remit of the nation states;
- C. Taking the view that hence the European Parliament alone cannot undertake exhaustive democratic scrutiny of the ESDP and noting that Parliament’s competences in this regard are restricted by Article 21 of the Treaty on European Union, which confines the obligation on the Council to the Presidency only having to inform the European Parliament;
- D. Aware that the national parliaments themselves, by definition, have no European overview of the EU’s security and defence policy, while the ESDP must be discussed as a matter of priority at European level, given that the basic principles underlying the European Union’s Common Foreign and Security Policy will in future considerably reduce the possibility of conducting purely national conflict-prevention and crisis-management policies on which agreement has not been reached in advance at European level;
- E. Stressing the fact that this common European approach is particularly essential for military operations, hence the need for joint reflection on such matters and comparison of national defence budgets and requirements on a European scale;
- F. Aware that the WEU Assembly will continue to exist for as long as the Brussels Treaty remains in force and will therefore continue to have oversight of Article V (on collective defence) but taking the view that that Assembly – in its present make-up of 10 or 28 countries – is not suited for democratic scrutiny of the policy carried out by the Fifteen EU member states;
- G. Considering, however, that it is essential to continue to involve the non-EU European NATO countries and the associate partner countries, which are neither NATO nor EU members but applicants for accession, in a pan-European security and defence policy, thus preserving one of the WEU Assembly’s principal *acquis*;
- H. Noting, in short, that there is undoubtedly a major democratic deficit in regard to the ESDP;
- I. Recalling the lessons learned from the seminar held on 14 May 2001, at the Dutch Parliament in The Hague, organised on the initiative of the Netherlands section of the European Movement;
 - 1. Urges the organisation of a form of European collective – in other words transnational – parliamentary scrutiny, so as to enable national parliamentarians to form a common view on the needs of the European Security and Defence Policy, in association with the European Parliament, which self-evidently has a central role in the development of the EU;
 - 2. Considers that COSAC-style models, or meetings of the chairmen of appropriate national parliamentary committees and committees of the European Parliament, alone cannot fully meet that objective;
 - 3. Is convinced that parliamentary scrutiny of the ESDP should primarily be undertaken by the representatives of European Union member states, since what is involved is identifying the

wherewithal the European Union needs to exercise its future autonomy as a political entity, and that such scrutiny must be embodied in an institution and hence provided for in the Treaty on European Union or in an additional protocol thereto;

4. Decides in favour of the creation, within the European Union, of an *ad hoc* security and defence assembly, as follows:

- Such an assembly would comprise the members of the European Parliament's Committee for Foreign Affairs, Human Rights, Common Security and Defence Policy and national parliamentarians from the EU member states, their number being fixed in line with the rules applying in the Assembly of WEU.

The national parliamentarians sitting in the new Assembly would preferably also be appointed to the WEU Assembly.

The Chairmen of the Foreign Affairs and Defence Committees of the national parliaments would automatically be part of the new assembly.

- The Presidency of the new assembly would alternate between a European and a national parliamentarian.
- Within the assembly, national and European members would form groups according to political persuasion rather than nationality.
- The EU Council of Ministers and the High Representative for the Common Foreign and Security Policy would be obliged to submit an annual report on the development of the ESDP and to reply to recommendations and written and oral questions from parliamentarians.
- In order to avoid unnecessary expense and to profit from the experience gained by the WEU Assembly over fifty years, the Office of the Clerk to the new European assembly could be common to it and the Assembly of WEU;

5. Urges, furthermore, the creation of a pan-European forum for discussion of ESDP matters which might either be the WEU Assembly or be created by associating the non-EU countries concerned directly to the newly constituted assembly, according to arrangements yet to be defined;

6. Adopts the present resolution as a contribution to the Parliamentary Conference on the European Security and Defence Policy (ESDP) and related parliamentary scrutiny, to be held in Brussels on 2 and 3 July 2001.

APPENDIX II***New proposal for a declaration on the parliamentary dimension
of the European Security and defence policy***

submitted by Mr Armand De Decker, President of the Belgian Senate

Pursuant to the Conference on the European Security and Defence Policy (ESDP) and related parliamentary scrutiny, held in Brussels on 2 and 3 July 2001, we, parliamentarians of the Member States of the European Union, meeting on the occasion of the follow-up conference, also held in Brussels on 6 and 7 November 2001,

- A. Welcoming the development of the European Security and Defence Policy (ESDP) and the creation of structures allowing the European Union to implement a policy of conflict prevention and civil and military crisis management, in particular by carrying out Petersberg-type missions;
- B. Aware that the ESDP is, as things stand, intergovernmental, and in particular that the defence budgets and operational military decisions necessary for the implementation of that European policy fall within the remit of the nation states;
- C. Considering that responsibility for the democratic dimension and supervision of the ESDP cannot therefore lie solely with the European Parliament and noting that the latter's competences in this regard are restricted by Article 21 of the Treaty on European Union, which on the one hand places an obligation on the Council Presidency to consult and inform the European Parliament on the main aspects of the Common Foreign and Security Policy and on the other gives the European Parliament the power to ask questions of the Council or make recommendations to it;
- D. Aware of the powers of the European Parliament as regards the use of civil crisis-management instruments available to the European Union;
- E. Recalling that the constitutions of the Member States of the European Union confer upon their parliaments the task of exercising democratic scrutiny over security and defence policies, even where these are implemented within the framework of the ESDP;
- F. Aware that each national parliament has difficulty in obtaining a European overview of the EU's security and defence policy, while the ESDP must be discussed as a matter of priority at European level, given that the basic principles underlying the European Union's Common Foreign and Security Policy will in future considerably reduce the possibility of conducting purely national conflict-prevention and crisis-management policies on which agreement has not been reached in advance at European level;
- G. Stressing that a common European approach is particularly essential for military operations, hence the need for joint reflection on such matters and comparison of national defence budgets and requirements on a European scale;
- H. Aware that the WEU Assembly will continue to exist for as long as the modified Brussels Treaty remains in force and will continue to monitor Article V (on collective defence) and armaments cooperation, but also aware that, as matters stand, the Assembly has no mandate from the European Union to ensure oversight of the ESDP;
- I. Considering, however, that it is essential to continue to involve the non-EU European NATO countries and the associate partner countries, which are neither NATO nor EU members but applicants for accession, in the European Security and Defence Policy, thus preserving one of WEU's principal *acquis*;
- J. Noting, in short, that there is undoubtedly a major democratic deficit with regard to the ESDP;
- K. Aware that the role of the national parliaments in the European architecture is one of the questions to be addressed in the Laeken Declaration, with a view to the next Intergovernmental Conference scheduled for 2004;
- L. Recalling the lessons learned from the seminar on the parliamentary dimension of the ESDP held

on 14 May 2001 at the Dutch Parliament in The Hague and organised on the initiative of the Netherlands section of the European Movement, and welcoming the adoption by both chambers of the Belgian Parliament on 28 June 2001 of a resolution on the parliamentary scrutiny of the European Security and Defence Policy;

1. Recommend that, for an interim period pending the institutional changes in the European Union that will result from the 2004 IGC, there should be a European collective, that is to say transnational, parliamentary dimension and system of supervision that will enable national parliamentarians to form a common view on the needs of the European Security and Defence Policy, in association with the European Parliament, which has an obvious and central role to play in the development of the EU;
2. Accordingly advocate the setting up, within the European Union, of an *ad hoc* security and defence assembly on the basis of the following principles:
 - representation of each of the Member States and of the European Parliament by a parliamentary delegation whose membership would have to be determined, including members of the standing committees responsible for defence matters and foreign affairs;
 - organisation of at least two sessions per year;
 - an obligation upon the EU Council of Ministers and the High Representative for the Common Foreign and Security Policy to submit to the assembly a written annual report on the development of the ESDP and to reply to recommendations and written and oral questions from the assembly;
 - standing committees, an elected presidency and a permanent secretariat, to be strengthened as necessary by the country holding the Presidency of the European Union;
3. Urge, furthermore, the specific association in the new assembly of the non-EU countries concerned, according to a formula to be defined;
4. Adopt the present text as a contribution to the declaration to be adopted by the Laeken European Council.