



Building an Integrated and Accountable European Security and Defence Policy



international security information service, europe

ACKNOWLEDGMENTS

Aim of the Conference

The Conference brought together key representatives from EU institutions, academia and Non-Governmental Organisations (NGOs), to explore how the EU might increase the accountability of its increasingly integrated security and defence policy, particularly in the areas of:

- Institutional reform
- Implementation of crisis management operations; civilian and military
- Co-operation on armaments
- Implementation of arms exports policy

Organisation

The conference was organised by the International Security Information Service, Europe (ISIS Europe). **ISIS Europe** is an independent research organisation that works to improve dialogue and decision-making on security and defence both within and between the EU and NATO, while seeking to widen the debate and increase transparency and accountability. Through its publications and events it enables substantive debate and networking and provides policy input to strengthen integrative approaches to conflict prevention, crisis management, peace building, arms control and disarmament.

Sponsors

ISIS Europe would like to thank the European Commission for its support of the Research Training Network, 'Bridging the Accountability Gap in European Security and Defence Policy', of which this conference forms a part.

The Research Training Network (or 'esdp democracy' project) engages practitioners and young researchers from EU and Associated States to study and make recommendations on new forms of democratic accountability for the defence and security capability of the European Union. This is a cross-disciplinary study that draws upon existing networks of expertise to bring together political scientists with those concerned with European integration and civil-military relations. It is being conducted over four years by a consortium of research partners located in the following institutions: The University of East Anglia, U.K.; International Security Information Service, Europe (ISIS Europe), Brussels, Belgium; The University of Bradford, Peace Studies Department, U.K.; Université Libre de Bruxelles (ULB), Brussels, Belgium; Bonn International Center for Conversion (BICC), Germany; Institute of Studies on Conflicts and Humanitarian Action (IECAH), Madrid, Spain; Norwegian Institute for International Affairs (NUPI), Oslo, Norway; Institute of International Relations (IIR), Prague, Czech Republic.

For further information about the 'esdp democracy' project please visit the project website: www.esdpdemocracy.net or consult the recent article in Public Service Review by project co-ordinator, Patricia Chilton: http://www.publicservice.co.uk/europe/spring2003/eu_spring2003_contents.shtml

The Conference Report

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Part 1: Report of Conference Proceedings

SESSION 1: HOW CAN STRUCTURAL REFORMS IMPROVE THE INTEGRATION AND ACCOUNTABILITY OF ESDP?

In this first conference session speakers addressed the ways in which structural reforms could improve the integration and accountability of the Common Foreign and Security Policy (CFSP) and European Security and Defence Policy (ESDP). The draft constitution then under discussion at the European Convention was evaluated and the session aimed to identify further reforms that could be enacted in order to improve the integration and accountability of EU action in foreign affairs, security and defence.

Chair: Dr. Patricia Chilton

**Co-ordinator of the 'ESDP Democracy' project,
University of East Anglia (UEA)**

"...two and a half years ago, when we started our project, ESDP and democracy were an acronym and a word that did not often appear together..."

As part of a Commission funded project, 'Bridging the Accountability Gap in ESDP', this conference will address issues of accountability arising from the Union's moves toward creating a more integrated security and defence policy. Debate on this issue is particularly timely given the recent crisis over Iraq, the launch of the Union's latest ESDP operation in Congo and the release of the Convention's draft Constitution.

Dr. Wim Van Eekelen

**Member of the Netherlands Senate and
(alternate) member of the European Convention**

"...the basic question remains: is it possible to combine EU foreign, security and defence policy into an integrated whole?..."

Future progress in ESDP depends upon member states being prepared to act in a truly 'common' way. However, some member states, whose foreign policy is subject to minimal parliamentary control in their own countries, are reluctant to move away from inter-governmentalism toward more integrated decision-making.

Although decisions on the use of force should continue to be made by unanimity, Qualified Majority Voting (QMV) could be introduced in many other areas of CFSP. However, national parliaments cannot always call their governments to account for decisions taken by QMV. If QMV is introduced in CFSP/ESDP the European Parliament (EP) must be given 'co-decision' powers; otherwise there will be a loss of accountability.

Turning to the Convention, the proposed 'EU Foreign Minister' will also serve as Vice President of the Commission with access to the community

budget and will therefore be accountable to the EP as far as the budget is concerned. Beyond this, it is not clear how the Foreign Minister will be accountable to the EP. Nevertheless, it is welcome that, Secretary General/High Representative (SG/HR) has so far been willing to engage with the EP beyond the limits of his formal obligations.

Looking beyond the Convention, it would be desirable to replace the Nice QMV criteria with a simple double majority (of member states and populations) or with 'super QMV', (a double majority of 60% or more). 'Super QMV' could replace unanimity in some areas of CFSP/ESDP. However, if the EP is not given a correspondingly larger role in CFSP/ESDP, accountability will remain an illusion.

Dr. Fraser Cameron

**Director of Policy Research, European Policy
Centre**

'... I believe that democratic accountability is important and there is a very strong public interest in CFSP and ESDP...'

The Convention's draft constitution is disappointing: it is weak and yet still incredibly complex. Without agreement on fundamental principles it is difficult to agree coherent and transparent decision-making structures and almost impossible to bring in democratic accountability.

Publics are interested in security issues but have few ways to express their views and the media has been poor in addressing these issues. In addition, transparency is frustrated by the over-classification of Council documents on CFSP.

The EP and national parliaments should be more involved in CFSP/ESDP. Their resources should be increased in order to improve their capacity to monitor and influence EU policies and they should receive regular information on all developments. Both the EP and national parliaments should increase their contacts with think tanks, the media and NGOs to enhance transparency.

In addition, the EP and the national parliaments should hold a simultaneous six monthly debate on CFSP/ESDP. This would force national governments to defend EU policies, generate greater media interest in EU foreign policy and stimulate a genuine EU debate on priorities and interests. The SG/HR (and the future foreign minister) should not only increase his/her appearances at the EP, which have become less frequent than they were, but also visit the foreign affairs committees of national parliaments.

Better inter-parliamentary co-operation is needed, including at the very least more exchanges of staff between national parliaments and the EP and more use of technology such as video-conferencing. In an enlarged EU it will not be possible for all institutions to follow all issues at all times. More use could be made of joint reporting with individual parliaments or groups of parliaments heading task forces on particular issues.

DISCUSSION

There was disagreement as to the effect that the Convention would have on the democratic deficit in CFSP/ESDP. Most acknowledged that gains for the EP would be small but that it was too soon to tell whether the overall effect would be positive or

negative. However current arrangements restricting EP access to classified information attracted strong criticism. Discussion also touched on the question of inter-parliamentary scrutiny, although there was no consensus as to the most appropriate model. Regarding the Council, it was suggested that the presence of observers (the new member states) had led to an increase in transparency and an improvement in working practices and that inviting other observers to Council meetings might help to entrench these gains.

Discussion also focused on capabilities. Dr Van Eekelen recommended the development of concrete force packages based on crisis planning, arguing that the EU will not be able to tackle higher end Petersburg Tasks unless its forces are used to working together. He hoped that the prospective armaments agency would facilitate this process. Some participants questioned whether the inclusion of an Article V commitment in the Convention would encourage the EU to develop the 'wrong' kind of capabilities. Dr Cameron argued that the Article V debate was a distraction from the key issue, which is defining the purpose and values of CFSP/ESDP in the context of unprecedented US doubts over the desirability of further EU integration.

SESSION 2: HOW CAN MEMBER STATES AND EU INSTITUTIONS BE HELD TO ACCOUNT FOR THEIR IMPLEMENTATION OF EU CRISIS MANAGEMENT OPERATIONS?

The second conference session looked in detail at the structures currently in place in the EU for the preparation, launch and management of civilian and military crisis management operations. Recent operations were examined in order to identify the ways in which member states and EU institutions are held accountable for their planning and implementation. The session also addressed ways in which the transparency and accountability of such operations could be further improved in the future.

Chair: Catriona Gourlay
Executive Director, ISIS Europe

'...accountability is about democratising the policy-making process at all levels...'

Those of us, who have long been concerned with the accountability of ESDP, are pleased that the EP is becoming increasingly involved in ESDP. However, the extent of its involvement is often dependent on the Council. It is welcome that MEPs are now briefed on EU operations but regrettable that such briefings take place only if the Council so decides. Moreover, accountability is not simply a question of increased rights for the EP but of democratising the policy-making process at all levels.

Captain (N) Lars Wedin
Chief Concepts Branch, EU Military Staff

'...there are different kinds of accountability; financial, legal and political, applying to three levels in a crisis management operation; the individual, the member state and the EU...'

EU operations are launched by the Council and directed by the Council or the Political and Security Committee (PSC) when the Council so delegates. The Council may designate one EU member state as 'framework nation' for a particular operation, giving that state principal responsibility for the start up and planning of the operation. For example France is acting as 'framework nation' for Operation Artemis in the Democratic Republic of Congo (DRC). A UN mandate is not strictly necessary for all EU operations. Most member states prefer EU operations to have a specific UN mandate but this is more important to some than to others.

Because the EU does not have a standing chain of command, EU operations need planning and other assets provided either by NATO (as for Operation Concordia in Macedonia) or by a member state (as for Operation Artemis in DRC). Operations, which make use of NATO assets, have not been subcontracted to NATO and remain EU operations with a full EU chain of command operating within

Supreme Headquarters Allied Powers Europe (SHAPE).

In responding to a crisis the Council first agrees a crisis management concept identifying its objectives and the means (both civil and military) necessary to achieving them. The Military Staff then carry out strategic planning to provide the basis for a Council joint action detailing the objectives, mandate, funding and structure of the operation. On the approval of the Council the Military Staff then task the Operation Commander to draw up a Concept of Operations and Operations Plan. The Council then concludes a status of forces agreement and perhaps a Memorandum of Understanding (MOU) with the host government. Once all these processes are complete and the necessary forces have been generated, the Council can launch the operation.

In this way, member states are fully involved in all decision-making and can therefore be held individually accountable by their own parliaments and electorates. Financial responsibility lies with member states, who contribute to common costs with all other costs lying where they fall. Legally soldiers are accountable under international humanitarian law, the law of the state to which they belong and through the chain of command.

Dr. Renata Dwan
EUPM Special Advisor, General Secretariat,
Council of the European Union

'...while the EP is a key actor in the development of a more integrated and accountable ESDP, there are a series of other tools and mechanisms for accountability that we need to think about...'

The EU Police Mission to Bosnia and Herzegovina (EUPM) has shown that whilst the number of actors involved in civilian crisis management poses challenges for co-ordination, it also offers increased entry points for accountability. Peace operations are generally not very transparent but the EU has the potential to make its operations comparatively more transparent because of the clarity of its decision-making structures.

EUPM had a long lead in time allowing for tracking by national parliaments. The Joint Action establishing the mission was issued in March 2002 and EUPM received the backing of the UN Security Council and the Bosnian authorities. Relevant documents are in public domain, if sometimes difficult to find on the Council's website.

Financial accountability is divided between the member states, which are responsible for the provision of salaries, etc., and the EU institutions, which oversee spending on joint costs financed by the community budget. This spending is covered by the financial regulation, a structure that guarantees a high level of accountability but is not well suited to the changing demands of crisis management. A better balance needs to be found between accountability and flexibility.

The EUPM Commissioner sends a detailed monthly report to participating states, including third states, and to the PSC. Seconded personnel also report formally and informally to their own ministries. Although the media is an important accountability tool, the media profile of EUPM in Bosnia was kept deliberately low in order to promote Bosnian 'ownership' of the process. However, more could have been done to raise awareness of the mission in member states.

EUPM established mechanisms for sharing confidential documents with other international organisations in Bosnia, thereby increasing transparency and efficiency. The EUPM Commissioner has updated the EP on the progress of the mission and MEPs, national officials and police delegations have visited the mission in the field.

The Council Secretariat and the Commission have produced a comprehensive 'lessons' paper covering the planning experience and a 'first hundred days' review is currently being compiled. EUPM has also developed a 'benchmarking' process for joint target setting with the Bosnian police.

Crisis management operations often have to be launched quickly and in chaotic circumstances and a certain amount of faith is required on the part of member states when entrusting their personnel to EU planners. The profusion of actors in such operations offers potential for greater accountability but can cause difficulty in determining responsibility for particular actions. Further work is needed on media outreach and other ways of keeping citizens informed and educated.

Dr. Hans Born
Geneva Centre for the Democratic Control of Armed Forces (DCAF)

'...the only institutions that can provide democratic oversight are parliaments...'

Unless parliaments have power over the dispatch of forces there is no real check on the power of the executive. Some parliaments have no such power. These include parliaments in presidential systems such as the US and France, Westminster systems such as the UK and former UK colonies and those in a third group of states including Spain and Belgium.

Parliaments with power of prior approval are divided into two groups; those whose power is limited to approving or blocking the dispatch of troops (Italy and Norway) and those which also have power of approval over the mandate, Rules of Engagement (RoE) and duration of the troop deployment (Germany, The Netherlands, Denmark, Sweden and Czech Republic).

Although parliaments have power over the budget, governments tend not to request the extra spending necessary for the dispatch of troops until after the troops have been deployed. This makes it very rare for parliaments to exercise the powers that they have, a notable exception being the US congress' withdrawal of funds for its UN mandated operation in Somalia.

It is important that parliaments are well resourced. Well-staffed committees with sizable budgets and access to outside expertise are crucial. In addition parliamentarians must have the willingness to hold executives to account in spite of party discipline and other constraints.

Nevertheless, many governments realise that it is in their own interest to involve parliaments in their decisions to use force, because those decisions ultimately depend on the will of the public, expressed through parliament. Given that the EP currently has no such powers, there is the danger of a 'double democratic deficit' - at both national and EU level regarding ESDP. It remains to be seen whether this deficit will be closed and how.

DISCUSSION

Discussion focused on balancing accountability and flexibility. Some suggested that having to defer to parliaments over the duration of missions made operational planning difficult. Captain Wedin agreed with this view, citing the need for swift action in crisis management situations. Dr Dwan commented that uncertainty regarding

rotation of personnel is potentially disruptive to ongoing operations. Dr Born was of the view that it was better for parliaments to possess such formal powers but to use them wisely.

Questions also focused on the evolution of parliamentary powers. Dr Born observed that in some states parliamentary powers have been expanded to include rights over peacekeeping but that in many states formal parliamentary powers relate only to declarations of war. He also

observed that the courts sometimes play a role in clarifying parliamentary powers.

Regarding the funding of civilian crisis management operations, Dr Dwan agreed that greater flexibility was needed but did not think that the ECHO 'rapid response' mechanism was appropriate for funding crisis management operations because the kind of equipment required for crisis management operations is quite different from that required by ECHO for its operations.

SESSION 3: HOW CAN MEMBER STATES BE HELD TO ACCOUNT FOR THEIR INCREASINGLY INTEGRATED ARMAMENTS POLICIES, INCLUDING ARMS EXPORT POLICIES?

PART ONE: ARMAMENTS CO-OPERATION

Part one of the third conference session examined EU armaments policies. Prospects for member state co-operation in arms production and procurement were examined in the light of Convention proposals for an EU armaments and defence research agency and the recent Commission Communiqué, 'European Defence – Industrial and Market Issues: Towards an EU Defence Equipment Policy'. Placing these developments in the context of the Council of Ministers' recent decision to begin developing an EU Security Strategy, the session considered the effect of these developments on the transparency and accountability of armaments policy.

Chair: Karl Von Wogau MEP
Member, Committee on Foreign Affairs, Human Rights, Common Security and Defence Policy

'...we cannot discuss an EU armaments agency if it is not clear in what context it will operate...'

Before establishing its proposed armaments agency, the EU should first develop a defence strategy based on a full public and parliamentary debate that would establish fundamental principles and clarify citizens' expectations. The EU needs a clear plan for ESDP with concrete benchmarks and timelines similar to the EMU process. Only then can the EU determine the level of armaments it needs to achieve its goals. The EU should also create a single market in defence.

The armaments agency will have several functions: participating in the discussion about capabilities, funding pre-competitive defence research and managing large projects. So far there has been no mention of a role for the Commission or the EP. This could lead to the development of 'shadow budgets' not subject to Commission or EP scrutiny and difficult for individual national parliaments to oversee. The draft Convention text is not satisfactory on this point.

Lars Erik Lundin
Head of Unit, Security Policy, DG RELEX,
European Commission

'...I have no doubt that the EU security deficit will be addressed, it is a question of speed...'

The Commission aims to work with the Council and the EP to bridge the security deficit between the EU and the US. In developing its armaments policy the EU needs to recognise the breadth of the security debate in which it is now engaged and the importance of achieving a civil military synergy in its security policy.

The Commission respects the specificity of the defence sector and the sensitivity of member state

competences in this area but aims to help member states to reach their goals through facilitating networking, best practices and research. While the Commission accepts that the proposed armaments agency will be essentially intergovernmental in character, it asks member states not to rule out an enabling role for the Commission.

Whilst it cannot enforce standardisation, the Commission believes that it can promote common standards to enhance inter-operability. It can also help to facilitate equipment transfer within the Union, by encouraging the replacement of existing bilateral agreements with an EU regime.

Regarding research, the Commission would like to introduce a security component to its research programmes. The Sixth Framework Programme is not able to support security research in as flexible a way as is necessary but the Commission is starting some small pilot research actions specifically related to security.

The Commission can advance EU armaments policy by contributing to the debates on cost efficiency in defence spending, the structure of the defence industrial base, ethics in the arms trade and other issues. Debate on all aspects of armaments policy should feed into ESDP.

Dr. Gerrard Quille
Deputy Director, ISIS Europe

'...in the Commission Communiqué accountability seems to be an afterthought rather than an integral part of the policy..'

It is encouraging that both the EP and Commission support the development of an EU security strategy as this indicates their awareness that armaments policy involves a broad range of issues beyond the defence industry.

By identifying key goals, an EU security strategy can help the Union to determine its capability needs. However, we should not forget ongoing

initiatives such as European Capabilities Action Plan (ECAP) and the Helsinki Headline Goals. The Thessaloniki European Council will provide an ideal moment to reflect on how existing initiatives compare with the strategic concept and how each can inform the other.

It seems that the two main aims of the Commission Communiqué are providing a framework to support industry and promoting efficient procurement. By concentrating on the aerospace and communications industries and neglecting more sensitive sectors such as naval and land forces, the communication avoids addressing the potential economic and social effects of a single market such as the creation of monopolies in certain sectors. With regard to promoting competition, the Union must take care not to develop policies that conflict with its arms export control regime.

Accountability remains a key concern. Although the Communiqué was produced in response to an EP request, it is largely silent on issues of transparency and accountability. More work is needed to integrate accountability concerns into the institutional approach to armaments policy.

Procurement has become more integrated at the national level and is likely to become more

integrated at EU level. Plans for the prospective armaments and defence research agencies emphasise the existing triangular relationship between the Council, which sets priorities, the Commission, which provides resources and industry, which carries out research. The question now facing the EU is how to make these processes more transparent and accountable.

DISCUSSION

Questions were raised about the difficulty of managing large-scale procurement projects in an efficient and accountable manner. Mr Von Wogau suggested that good management would flow from a better understanding of the capabilities required to meet CFSP/ESDP objectives.

Regarding the defence market, Mr Lundin explained that the Commission would like to create a level playing field for exports, so that companies could export from different countries within the EU without having to deal with different regulatory systems. Regarding the armaments agency, it was agreed that this is a project whose time has come with much of the impetus for establishing the agency coming from the constraints currently imposed on national defence spending.

SESSION 3: HOW CAN MEMBER STATES BE HELD TO ACCOUNT FOR THEIR INCREASINGLY INTEGRATED ARMAMENTS POLICIES, INCLUDING ARMS EXPORT POLICIES?

PART TWO: ARMS EXPORT CONTROLS

Part two of the third conference session examined the EU arms exports control regime in the light of the recently published 4th Annual Report on the Implementation of the EU Code of Conduct on Arms Exports. The session considered the ways in which the reporting system serves as an accountability tool for NGOs and the public at both the member state and the EU level and suggested improvements that could be made in its compilation. Speakers also discussed enforcement of the Code, focusing particularly on the work of the Council Working Group COARM regarding denial notification and the content of end user certificates. The session also examined the prospective EU common position on arms brokering currently under negotiation within COARM.

Per Fischer
Danish Representative to Council Working Group, COARM

'...the EU annual report on arms exports is an important information tool for the public...'

In an appendix to last year's Annual Report on the implementation of the EU Code of Conduct, the EU published a Compendium summarising all significant decisions taken since the adoption of the code in 1998. This compendium will be updated in subsequent reports and provide a comprehensive, concise and accessible document.

There have been several changes to the reporting system since the publication of the 3rd Annual Report. The report now gives information on exports by recipient country and not simply by region. It also publishes information on the total number of denials issued by the EU to a particular country (although it doesn't indicate which member states issued the denials). The report does not give a breakdown of exports by category of material or by type of end user. Nevertheless, the report is an important publicly available document.

The EU report should be seen as a supplement to national reporting, although some national reports are more detailed than others. For example the Danish report is very detailed, giving data by both type of recipient and category of material. However, it is important not to overload the EU report with information but to focus on key data.

The immediate transparency goals for EU reporting include securing a commitment by EU member states to publish a national report on arms transfers (most states now do this but not all), the standardisation of reporting requirements regarding the value of arms exports and the inclusion of data from accession and associated countries.

Eleftheria Yannakou
Greek Presidency Representative to Council Working Group, COARM

'...the atmosphere in COARM is very co-operative; member states are willing to discuss, to listen and to find solutions...'

The Greek Presidency's priorities are: enhancing dialogue with candidate countries, updating the EU common list of military equipment, standardising end user certificates, harmonising national reporting, improving communication of denial notifications and tackling arms brokering.

All the candidate countries have adopted the necessary legislation to fulfil their obligations under the code; it only remains for implementing mechanisms to be put into place. An aggregate list of EU denial notifications for the year 2001-02 will be sent to candidate countries (and Norway). The EU common list of military equipment is being adapted to correspond with the list agreed by the Wassener agreement. Preliminary work is complete but some updating remains to be done.

The Greek Presidency is working to standardise information requirements for end user certificates. At the moment certificates include eight obligatory and nine optional categories of information. The Greek Presidency aims to persuade member states to move categories from the optional to the compulsory list and has had some success so far.

Regarding national reporting, the Greek Presidency has been focusing on harmonising member state reporting of the value of their arms exports. Member states have responded favourably but there remain a number of administrative and technical problems to be resolved.

The EU Code provides for the circulation through the diplomatic channels of member states of all

licence refusals. However, there is often a considerable delay between issuing a denial and communicating this denial to other member states. COARM is now discussing the creation of an electronic denials database and a secure electronic network for the circulation of denials.

The latest draft EU common position on arms brokering covers the issuing of licences for brokering activity, member state control of brokering activities taking place on EU territory and (optional) control of brokering conducted by EU nationals in third countries. It does not provide for the establishment of a register of brokers but it does require member states to keep records of all the licences they issue. It also provides for a system of information exchange on brokering activities and requires member states to introduce criminal sanctions for illegal brokering.

Roy Isbister
Saferworld

'...although there is greater convergence and co-operation between member states, this is a process that has to continue...'

Further action is needed to enhance the quality of decision-making and implementation, increasing the extent and depth of co-operation among member states, improving transparency and expanding the scope of EU action. Many NGOs feel that the criteria are not being applied in a sufficiently rigorous and consistent manner. Greater information sharing within the EU and more transparency to the public is required.

Saferworld welcomes progress on the 'real time' communication of denial notices but believes that all member states should ultimately be involved in consultations where one member state is considering issuing a licence for a transaction that has already been refused by another member state. Risk assessment can be difficult for smaller member states who should have access to information held by other member states.

Saferworld welcomes attempts to increase the number of obligatory elements included in end user certificates but regrets that greater progress has not been made so far. Greater co-operation on end use would open the possibility of introducing collective sanctions against recipients who were

found not to have honoured their end use obligations.

Although we welcome the improvements in EU reporting, certain data published in the EU report is still not comparable across member states. Common minimum standards should be agreed for national annual reporting with meaningful descriptions of the equipment exported that are accessible to the public.

Progress on arms brokering is welcome but optional controls on EU nationals operating abroad are not sufficient. We are also concerned that there is no mention of regulating support services such as transportation and insurance.

Regarding enlargement, the EU needs to offer better co-ordinated assistance to new member states whose practices do not yet come up to EU standards. COARM should also consider how other states aligned to the EU Code could be more involved.

It is crucial that export control is placed at the heart of EU armaments policy and not superseded by the logic of competition. Most importantly, any transfer of competences to the EU should not lead to the loss of the accountability mechanisms that have been developed at the national level.

DISCUSSION

Discussion on enforcement issues covered the questions of arms production under licence, technology transfer and offset. Mr Isbister suggested that intellectual property regulation might provide a tool for tackling some of these issues. It was also suggested that physical checks be introduced at point of export, transit and import. Ms Yannakou agreed that this was desirable but was a matter for the customs authorities of exporting and recipient states.

It was agreed that COARM could do more to improve enforcement, given that Code of Conduct is the only EU export control regime that has no regular meetings on enforcement issues and no regular sharing of relevant intelligence. Mr Fischer stated that the EU should also improve its outreach to promote the Code among non-member states. However, he cautioned that the desire for greater transparency might lead to an over bureaucratisation of the export control regime.

Part 2: Conclusions and Policy Recommendations

SESSION 1: STRUCTURAL REFORM OF ESDP: IMPROVING INTEGRATION AND ACCOUNTABILITY

These recommendations draw on the conference proceedings but represent the views of ISIS Europe and should not be attributed to individual speakers.

Conclusions

Further reform of decision-making structures is necessary if the EU is significantly to increase its capacity in the area of common foreign and security policy. The EU must develop structures that facilitate timely decision-making in addition to having access to or ownership of the necessary capabilities for credible action. Whether member states pursue reform through further integration or greater co-ordination of ESDP, any changes must be underpinned by the highest standards of accountability at both the European Union and the national levels. In terms of structural reform, this implies a more substantial role both for the European Parliament and the national parliaments in the development of ESDP. Moreover, it requires the establishment of mechanisms, properly financed and resourced, that foster a culture of scrutiny and that ensure that the European Parliament and national parliaments co-operate in holding member states and EU institutions to account for actions undertaken in the framework of CFSP and ESDP.

Recommendations

Improving decision-making in the Council

- QMV should be extended to all areas of CFSP except decisions 'having military and defence implications', which should continue to be taken by unanimity. The treaty clause that allows a member state to invoke stated reasons of national policy to block a vote due to be taken by QMV – with the Council then having the option of referring the matter to the European Council – should be preserved in order to give member states the confidence to extend QMV.

Improving dialogue and decision-making on defence issues

- A formal meeting of defence ministers should be established within the General Affairs and External Relations Council (GAERC). Recent ad-hoc meetings have proven the need for defence ministers to meet to discuss matters of common concern. As ESDP develops, this need would be best met by establishing a formal defence ministers' meeting within the GAERC that would serve as the focus of all member state discussions on the military aspects of ESDP.

Increasing transparency to parliaments

- The Presidency (assisted by the SG/HR and the Commissioner for External Relations – later the Foreign Minister) should produce in co-operation with the Commission an annual report detailing how the Union's CFSP and ESDP instruments have been used over the preceding twelve months. This report should also include a consolidated work programme for CFSP/ESDP over the coming year. This Annual Report/Consolidated Work Programme should be transmitted simultaneously to the European Parliament and the national parliaments for debate during a designated week.

Enhancing inter-parliamentary co-operation

- A bi-annual 'ESDP Assembly' should be convened at the EP, bringing together members of the Foreign Affairs Committee of the EP (AFET) with members of the foreign affairs and defence committees of national parliaments. The Assembly would fulfil the functions currently performed by the WEU Parliamentary Assembly. Essentially, this would require the Assembly to appoint *rapporteurs* from among its members to produce reports on ESDP related topics selected by the Assembly. These reports would be circulated to the foreign affairs – or when appropriate – the defence committees of national parliaments and to AFET, who would have the opportunity to propose amendments. The reports would then be presented to the Assembly for adoption before being circulated to the EP, national parliaments, SG/HR, the Commissioner for External Relations and the Presidency. In order to support the work of the Assembly, the EP should establish an ESDP Assembly secretariat. The WEU Assembly should be discontinued but the EU should ensure that its considerable expertise is preserved by transferring resources from the WEU Assembly secretariat to that of the ESDP Assembly.

Improving contacts with the parliaments of the Union's near neighbours

- The ESDP Assembly (proposed above) should include, as observers, parliamentarians from non-EU NATO countries, candidate countries and the NATO Parliamentary Assembly.

Facilitating communication between the EP, national parliaments and parliaments of third states

- The EP should be equipped to conduct video-conferencing with national parliaments and the parliaments of third states when issues of common concern are being addressed.

Enhancing the capacity of the EP

- The resources of the European Parliament, and of the Foreign Affairs committee in particular, should be increased in order to facilitate greater parliamentary scrutiny of ESDP. Specifically, these increased resources should provide for an enhanced capacity to hold hearings and a new power to hold inquiries on the implementation of ESDP. The EP should be given the power to call persons from the EU institutions to give evidence to its inquiries. It should also have an increased capacity to commission written and oral evidence from outside experts. The budget of the EP secretariat should be increased to provide for a significant increase in staff with expertise in CFSP/ESDP.

Improving public access to documents

- Currently public access to information about CFSP and ESDP is impeded by the over-classification of Council documents. Current arrangements that allow the Council to restrict access to whole categories of documents should be amended. Classification of documents should occur on a case-by-case basis and the Council should be required to justify the withholding of individual documents or sections of documents on the basis of a stated EU interest. Crucially, all future decisions on access to documents should be taken in accordance with the established co-decision procedure (Article 255) and the Council should not seek to by-pass the EP when making these decisions as it did when it adopted its Decision on Measures for the Protection of Classified Information in July 2000. The current system whereby a 'Security Committee' of five MEPs is briefed in *camera* on classified documents is clearly inadequate. It should be abolished in favour of higher standards of openness and reform of the classification procedure.

Creating an effective 'EU Foreign Ministry'

- The proposed EU Foreign Minister should be supported by a secretariat staffed by members of the Commission, Council and the foreign ministries of member states. Bringing personnel from these institutions together in a single secretariat will mitigate the effects of continuing to divide elements of CFSP between the first and second pillars and ensure greater coherence between the Union's CFSP and ESDP objectives.

SESSION 2: ENHANCING THE ACCOUNTABILITY OF EU CRISIS MANAGEMENT OPERATIONS

These recommendations draw on the conference proceedings but represent the views of ISIS Europe and should not be attributed to individual speakers.

Conclusions

Currently member states are fully involved in all decision-making related to EU military crisis-management operations. Decisions are taken by unanimity and member states can therefore be held individually accountable for the implementation of these operations by their national parliaments. However, national parliaments require better access to timely information about these operations in order to scrutinise them effectively. Whilst it should have no role in launching EU military operations, the European Parliament should receive more timely and regular information about these operations. The European Parliament should exercise a right of co-decision over the launch of EU civilian crisis management operations and should receive regular and timely information regarding their progress in the field. Civilian crisis management operations involve a greater number of actors than military operations and therefore offer more entry points for participation in the implementation and evaluation process. These should be fully exploited to allow a wide range of stakeholders to contribute to the Union's 'lessons learning' capacity.

Recommendations

Enhancing the EP's involvement in decision-making regarding crisis management operations

- **Civilian Operations:** The European Parliament (EP) should be given a right of co-decision over the launch of EU civilian crisis management operations. Given that these operations are partly financed by the Community budget and often imply the use of first pillar instruments, it would be entirely consistent with the evolution of the EP's powers in other areas of Union competence to award the EP co-decision rights in this matter. To ensure that decisions on the launch of crisis management operations would not be unduly delayed, the EP would have a limited time in which to exercise its right of co-decision, which would lapse if no vote had been taken at the end of the specified period.
- **Military Operations:** Decisions to launch military crisis management operations should remain solely with member states in the Council. Given that these decisions will continue to be made exclusively by member states, it is appropriate that they should be scrutinised first and foremost by national parliaments in accordance with the procedures in place in each member state. However, once a military crisis management operation has been launched, the SG/HR (in future the Foreign Minister) should transmit a written report on the operation to the EP Foreign Affairs Committee (AFET) and the foreign affairs committees of the national parliaments (see below). He should then attend a meeting of AFET in order to answer MEPs questions about the operation. This meeting should be relayed to the foreign affairs committees of the national parliaments by video-link, giving national parliamentarians the opportunity to question the SG/HR (Foreign Minister) about his report. The EP should then hold a full debate on the operation, albeit without a vote.

Improving transparency of crisis management operations

- **Civilian Operations:** Currently, the EU Police Mission in Bosnia (EUPM) Commissioner sends a detailed monthly report on the progress of the police mission to all participating states, including third states, and to the Political and Security Committee (which exercises political control and strategic direction of crisis management operations under the responsibility of the Council). This practice should be institutionalised for all EU civilian crisis management operations and the circulation of these reports should be expanded to include the foreign affairs committees of national parliaments and the EP.
- **Military Operations:** The need to safeguard the security of a military operation in the field may preclude the kind of detailed information sharing described above. However, the EU should ensure that as much information as possible regarding its military crisis management operations is transmitted to the EP and national parliaments in a timely and regular manner. To this end, following a Council decision to launch an EU military operation, the SG/HR (in future the Foreign Minister) should submit a short written report on the operation to the EP Foreign Affairs Committee (AFET) and to the foreign affairs committees of national parliaments. The PSC should then submit to AFET and the foreign affairs committees of national parliaments reports on the operation in the field at intervals of no less than six months and on each occasion that an operation's mandate is renewed.

Institutionalising 'lessons' learning

- The Council and Commission have commissioned a 'lessons' paper covering the planning experience of the EU Police Mission in Bosnia and a 'first hundred' days review. These evaluation procedures should be institutionalised for all future civilian and military crisis management operations and the reports, which they produce, should be made publicly available.

Widening participation in the evaluation process

- In order to improve the quality of its 'lessons learning' process, the EU should fully exploit existing 'entry points' for the participation of stakeholders in the implementation and evaluation of both civilian and military crisis management operations. In other words, when conducting and evaluating a crisis management operation, the Head of Mission or Force Commander should offer other stakeholders in the field such as Commission representatives in delegations, member state officials and NGO partners, the opportunity to contribute their feedback into the 'lesson-learning' process. This would encourage greater flexibility and responsiveness in the management of crisis management operations.

Raising the profile of crisis management operations, civilian and military

- Both member states and EU institutions should do more to raise the profile of EU crisis management through public outreach strategies. It is essential that EU publics are aware of the operations, which the Union is conducting in their name, both to build support for ESDP and to ensure that its future direction is informed by a genuine public debate, backed with a democratic mandate. In future the secretariat of the EU Foreign Minister should develop a clear strategy for each crisis management operation, working in close co-operation with national governments to implement effective information campaigns tailored to national contexts. Commission delegations in member states would be responsible for relevant outreach activities outside the EU.

SESSION 3: HOLDING MEMBER STATES TO ACCOUNT FOR THEIR ARMAMENTS CO-OPERATION AND ARMS EXPORTS POLICIES

These recommendations draw on the conference proceedings but represent the views of ISIS Europe and should not be attributed to individual speakers.

Conclusions

The planning for an EU armaments agency must take place in the context of a genuine debate about European security priorities and the capabilities needed to address them. In order to improve co-ordination of procurement and research, the EU armaments agency must avoid duplicating inefficient member state practices otherwise it will not succeed in its stated goal of helping member states to make better use of their current levels of defence spending. Regarding arms exports, the EU has made much progress in the implementation of its Code of Conduct. However, reporting at the national and European level could still be improved. Similarly, whilst progress toward an EU Common Position on Arms Brokering is to be welcomed, the proposed text could be strengthened in several ways. In all areas of armaments policy it is crucial that national standards of accountability are not lost with the transfer of functions from the national to the European level and that any transfer of competencies is seen as an opportunity for increasing transparency and accountability at all levels.

Recommendations

On arms co-operation

Generating public debate on armaments policy

- EU armaments policy must be informed by a public debate on the Union's security priorities and the capabilities required to address them. This debate should build on the Security Strategy presented by the SG/HR to the Thessaloniki European Council and the work of previous European Councils in this area. Governments and EU institutions have a responsibility to ensure that the process of elaborating an EU Security Strategy is widely publicised and that parliaments, civil society and publics in all member states have the opportunity to contribute to that process and to reflect on the implications for European defence equipment needs.

Establishing an effective and accountable armaments agency

- If, as seems likely, the proposed EU armaments agency takes the form of an intergovernmental body, which builds on the work of OCCAR and the framework agreement, that agency must be fully accountable to member state parliaments and publics. To this end, each national audit body should report on national implementation of agency projects and national compliance with commitments entered into within the framework of the agency, such as capability generation within ECAP (European Capabilities Action Plan) project groups. It would then be the responsibility of the armaments agency secretariat to collate these reports and to make an annual assessment of progress across member states. This annual assessment should be communicated to the parliaments of all member states.

Placing arms exports policy at the heart of EU armaments co-operation

- In seeking to improve the competitiveness of European defence industries, member states and EU institutions must ensure that new arms co-operation initiatives do not contradict existing commitments on arms exports or preclude further developments on arms export controls. In order to ensure coherence across all aspects of armaments policy, the work of the proposed EU armaments agency should be monitored by an EU arms exports ombudsman (see below) to ensure that it is consistent with a rigorous implementation of the EU Code on Arms Exports.

On arms exports

Improving reporting on the implementation of the EU Code of Conduct on Arms Exports

- National reports on implementation of the EU Code on Arms exports should include a breakdown of exports by category of material and type of end-user, enabling the EU to include such information in its own consolidated Annual Report. Crucially, the information in all these reports should be presented in a way that is meaningful to non-specialist readers, thereby giving the public genuine access to the data.

Improving co-ordination regarding denials

- All member states should be involved in consultations where one member state is considering issuing a licence for a transaction that has already been rejected by another member state. Moreover, all decisions on export licences should be recorded in an EU directory, accessible to all states associated with the EU Code.

Improving end-user certificates

- The Council Working Group on Armaments Co-operation (COARM) should make compulsory reporting on all categories of information currently classed as 'optional' on end-user certificates. More rigorous use of end-user certificates would facilitate collective action against recipients found to have breached their end-use obligations.

Improving enforcement of the EU Code on Arms Exports

- The EU should establish an ombudsman, supported by a secretariat, charged with monitoring and verifying compliance with the Union's Code on Arms Exports. This would serve a dual purpose: monitoring member state compliance with the Code and verifying recipients' respect for end-use obligations. In carrying out its functions the ombudsman would take full account of the work of the Council Working Group COARM on arms exports. The ombudsman should co-operate with COARM in offering support to new EU member states and candidate countries in implementing the reporting and other legal requirements of the EU Code. It should also work to improve the Union's outreach to third states associated with the EU Code. The ombudsman's office should also be given a mandate to monitor the work of the EU armaments agency to ensure that the agency's work is consistent with the rigorous implementation of the EU Code.

Tackling arms brokering

- The EU should amend its proposed Common Position on arms brokering to compel member states to introduce legislation criminalizing the activities of Union nationals operating as un-licensed arms brokers in third countries. Current proposals to make the introduction of such sanctions 'optional' leave a significant loophole in the legislative framework.

BRIEF BIOGRAPHIES OF SPEAKERS AND CHAIRS

Session One: The accountability of ESDP in the future of Europe

Professor Pat Chilton

Professor Chilton came to the University of East Anglia from a Chair in Politics and Peace Studies at Sunderland, having previously worked in Universities and Research Institutes at Manchester Metropolitan, Warwick, Aston, the Institut d'Etudes Politiques in Paris, and Stanford in California. Her publications include collaboration on *Defence and Dissent in Contemporary France* (Croom Helm, 1984), *France/Grande Bretagne: Consultations sur la défense et la sécurité* (EHESS, 1994) and *Bringing Transnationalism Back In* (Cambridge, 1995). She has been a research advisor to a number of international non-governmental organisations, a media consultant and a participant in several international research projects. She is currently Chair of the ISIS Europe Board, and Co-ordinator of the 'esdpedemocracy project'.

Dr. Wim van Eekelen

Dr van Eekelen is currently the Chairman of the Dutch parliamentary committee for Defence and a member of the committees for Foreign Affairs, Development Cooperation, European Organisations and the special committee on the Council of Justice and Home Affairs. He has been a member of the Dutch Senate, VVD (Liberal party) since 1995, is a member of the Dutch delegation to the WEU and NATO assemblies, and also a member of the Convention on the Future of Europe. Previously, he served as Minister of Defence (1986 to 1988), State Secretary of Foreign Affairs (1982-1986), member of the Dutch House of Representatives (1981-1982) and State Secretary of Defence (1978-1981). He was the Secretary General of the Western European Union from 1989 to 1994.

Dr. Fraser Cameron

Dr Cameron is Director of Studies at the European Policy Centre. A former academic and diplomat, he joined the European Commission in 1990 and has worked extensively on CFSP and the external relations of the Union. He also served 1999-2001 as Political Counsellor in the EU delegation in Washington DC. He has written and published extensively on foreign and security policy issues. His latest book is *US Foreign Policy After the Cold War* (Routledge, 2002).

Session Two: EU Crisis Management

Catriona Gourlay has been the Executive Director of the independent research organisation the International Security Information Service, Europe (ISIS Europe) since 1995. ISIS Europe aims to help improve the parliamentary scrutiny of security and defence through the provision of information and the organisation of regular seminars and occasional conferences in the European Parliament. Catriona Gourlay has published articles on the development of the European Union's foreign and security policy and on civil-military relations in complex humanitarian crises.

Captain (N) Lars Wedin

Captain Lars Wedin, Swedish Navy, has recently (July 2003) returned to the Swedish National defence College (NDC) as Director of Military History. He had previously served as Director of Strategic Studies at the NDC before a period as Chief of Concepts Branch, Policy and Plans Division, in the EU Military Staff. He has also been military advisor to the Swedish CSCE/OSCE Delegation in Vienna 1993-95 and served with the Ministry for Foreign Affairs in Stockholm until 1998. Lars Wedin was commissioned in 1969. A surface officer, he commanded a division of fast patrol boats (missiles) 1987-88. He has attended the Swedish Staff and War College and the French Naval War College. He is a member of the International Institute of Strategic Studies (London), Institut de Stratégie Comparée (Paris), Royal Academy of War Sciences (Stockholm), Royal Naval Society (Stockholm) and US Naval Institute (Annapolis).

Dr. Renata Dwan

Dr. Renata Dwan has served as a special adviser to the Planning Team for the European Union Police Mission in Bosnia and Herzegovina in the Secretariat of the Council of the European Union since 2002. She is also the leader of the Stockholm International Peace Research Institute (SIPRI) Project on Conflict Prevention, Management and Resolution and the project on International Policing: The New Agenda. In this capacity she has recently edited a research report on *Executive Policing: Enforcing the Law in Peace Support Operations*. Previously she was Deputy Director of the EastWest Institute's European Security Programme.

Dr. Hans Born

Dr. Hans Born (Netherlands) has been working for the Geneva Centre for the Democratic Control of Armed Forces (DCAF) since 2000. He is the Coordinator of the DCAF working group on parliamentary oversight of the security sector (PCAF). He is the editor of PCAF's newsletter and publishes frequently on democracy and security issues, such as, the *IPU-DCAF Handbook on Parliamentary Oversight of the Security Sector* (2003) and *Democracy and Security Sector Reform in Transitional Societies* (2002). He is a Member of the Legal-Political Assistance Group on Security Legislation of the Russian State Duma and Ukrainian Verkhovna Rada. He is also a Board Member of ERGOMAS - The European Research Group On Military And Society. Currently he is a guest lecturer on peace support operations at the Swiss Federal Institute of Technology in Zürich.

Session Three: EU Armaments Policy

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Karl Von Wogau is a member of the European Parliament Foreign Affairs Committee, representing the Group of the European People's Party and European Democrats. He is also a member of the Delegation for relations with the Mashreq countries and the Delegation for relations with the NATO Parliamentary Assembly. Before joining the European Parliament, Mr Von Wogau held a managerial position in a large firm in Basle and practiced as a lawyer. He was awarded the Federal Order of Merit First Class in 1996.

Lars-Erik Lundin

Lars-Erik Lundin has been the head of the Unit on Security Policy in the European Commission since 2000. His brief includes non-proliferation and disarmament, counter terrorism, ESDP, and armaments policy. Mr Lundin is also a member of the boards of the EU Institute for Security Studies, Paris and the EU Satellite Centre, Torrejon. From 1996-2000 he was Head of the Commission Delegation in Vienna, representing EURATOM at the IAEA and the Commission in the UN and OSCE. Previously he was the Head of Division for OSCE and Council of Europe Affairs in the Swedish Foreign Ministry.

Dr. Gerrard Quille

Dr. Gerrard Quille is the Deputy Director of ISIS Europe and a post-doctoral researcher in the 5th Framework project 'Bridging the Accountability Gap in EU Security and Defence Policy'. Previously he was Deputy Director of ISIS UK from April 2001 to May 2003. His research has focused on the politics and process of defence and security policy formulation and, in particular, on the role of external experts and parliaments. He has also written on the parliamentary dimension of defence policy, the 1980 Conventional Weapons Convention, European Military Capabilities and European Security and Defence Policy (ESDP), NATO Enlargement and the Revolution in Military Affairs (RMA) and Non-Lethal Weapons.

Dr Sibylle Bauer

Dr Sibylle Bauer is currently conducting a Research Fellowship at EU Institute for Strategic Studies. She will then join the Stockholm International Peace Research Institute (SIPRI) to work on arms export controls. She received her PhD from the Université Libre de Bruxelles (ULB) and the Freie Universität Berlin (FUB) and previously co-ordinated the Arms Transfers Working Group in the European Parliament for ISIS Europe.

Per Fischer

Per Fischer is the Danish representative to the Council working group, COARM. He has worked on arms export controls in the Danish Foreign Ministry since 1997. Before then he had worked in the Prime Minister's office since 1975, including a secondment to Paris.

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Eleftheria Yannakou currently chairs the Council working group, COARM. She is the first counsellor of the Embassy and works within the Disarmament Section of the Directorate for the UN and other international organisations. Previously, she worked at the Greek Consulate General in Melbourne, Australia and in the Greek Embassy in Bucharest.

Roy Isbister

Roy Isbister has been the Project Manager on Arms Export Controls at Saferworld since 2001. He completed his Masters in International Relations from the London Centre of International Relations of the University of Kent in 1998. He then worked as a member of the arms export controls team at Saferworld, before spending a year looking at humanitarian intervention issues for the International Security Information Service (UK). He has written extensively on arms export legislation and controls, in particular with regard to the UK and EU.

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ISIS Europe is an independent research organisation that works to increase transparency, stimulate parliamentary engagement and broaden participation in EU and NATO policy-making. Through its publications and events, ISIS Europe facilitates parliamentary and inter-institutional dialogue and provides policy input to strengthen common approaches to conflict prevention, crisis management, peace building, arms control and disarmament.

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