



## Previous Treaties and Agreements - What they say about military issues

The European Union is based on a number of Treaties. They set out what the Member States have agreed about the way they work together, the issues which are dealt with by the Union and those which are dealt with at national level. They also set out the institutions of the European Union and what they can and cannot do. The first such Treaty was concluded in Rome in 1957 and is referred to as the Treaty of Rome. It was amended over the years and there is now a Consolidated Treaty Establishing the European Union which contains the original Treaty of Rome and its amendments. Subsequently, a number of other Treaties (notably the Treaties of Maastricht, Amsterdam and Nice) have been concluded.

### What the Treaties say about military matters

#### Consolidated Treaty Establishing the European Union

This has only one reference to the term military. This reference simply allows Member States not to subject matters relating specifically to military purposes to competition across the European Community. In other words, it keeps all military matters completely out of the remit of the European Community.

#### Treaty of Maastricht

The Treaty of Maastricht introduces the concept of a Common Foreign and Security Policy (CFSP). In that section, in Article 27b, it still excludes all matters having military or defence implications from this policy.

#### Treaty of Nice

Repeats that exclusion of matters which have military and defence implications.

#### Treaty of Amsterdam

Refers extensively to the relations between the EU, the Western European Union (WEU) and NATO in the framework of the development of a European Security and Defence Policy within the Atlantic Alliance. However, it still allows Member States not to open their military to competition and not to disclose information they consider essential for their security.

In other words, there is still no clear indication that the European Union wishes to pursue a joint military line.

The decision to develop the EU military capability was taken by the Council of the EU (that is, the Heads of State and/or Government of the Member States) in January 2001 when it set up:

- The Military Committee of the European Union (this is made up of the Member States' Chiefs of Defence).
- The Military Staff of the European Union (this is made up of military personnel seconded by Member States to the Secretary General of the Council of the European Union).

## The Petersberg Declaration

In 1992, the Members of the Western European Union (WEU) agreed a Declaration at Petersberg in Bonn (referred to as the Petersberg Declaration) which set out the view of the Members of the WEU of their role in terms of security and defence in Europe.

The declaration said, in part:

In accordance with the decision contained in the Declaration of the Member States of WEU at Maastricht on 10 December 1991 to develop WEU as the defence component of the European Union and as the means to strengthen the European pillar of the Atlantic Alliance, WEU Member States have been examining and defining appropriate missions, structures and means covering, in particular, a WEU planning cell and military units answerable to WEU, in order to strengthen WEU's operational role.

The Declaration also includes details of the kinds of tasks that the WEU will undertake (referred to as the Petersberg Tasks) which include among others:

Apart from contributing to the common defence in accordance with Article 5 of the Washington Treaty and Article V of the modified Brussels Treaty respectively, military units of WEU Member States, acting under the authority of WEU, could be employed for:

- humanitarian and rescue tasks;
- peacekeeping tasks;
- tasks of combat forces in crisis management, including peacemaking.

For the full text of the declaration see: <http://www.cip.fuhem.es/ueh/documentos/ueo/92-petersberg.htm>

### The implications of the Petersberg Declaration for the issue of the militarisation of the European Union are:

1. The WEU was disbanded through full integration into the EU in November 2000. As a result the priorities of the WEU (as set out in part above) have become part of the priorities of the EU.
2. The WEU had a purely military outlook; this was despite the fact that it had taken on as its tasks humanitarian and rescue missions, peacekeeping, crisis management and peacebuilding.
3. The fact that the EU has now agreed to set up its own military research and capability agency, that it has set up its own military committee and staff and that this is to be embedded into the Constitutional Treaty reflects these developments.
4. Nowhere in either the Petersberg Declaration or in Article I-40 of the Draft Constitutional Treaty is there any reference to civilian capacity building, civilian intervention or the value of non-military and/or non-violent approaches to any of the humanitarian, rescue, peacekeeping, crisis management or peacemaking tasks.

During the period of the Intergovernmental Conference in 2003, when the Draft Constitutional Treaty was being discussed by Member States Governments and by the Council of Ministers, QCEA together with the European Peacebuilding Liaison Office (EPLO) lobbied for the setting up of a European Peacebuilding Agency in parallel with the defence agency proposed in Article I-40 of the Draft Constitutional Treaty. Since then, and despite the fact that the Draft Constitutional Treaty as a whole was not agreed by the Intergovernmental Conference in December 2003, the establishment of the European Armaments, Research and Military Capabilities Agency was agreed and implementation work has begun.

The original proposal made by EPLO and QCEA is reproduced here for completeness. However, there is now no further scope for lobbying for the introduction of this text into the Draft Constitution Treaty. Further work on the issue is being done and this is reflected in more detail in other papers in this series.

## Proposed Amendments to Draft Constitutional Treaty

### Part I

#### Article 40:

##### Paragraph 3

Member States shall make civilian and military capabilities available to the Union for the implementation of the common security and defence policy, to contribute to the objectives defined by the Council of Ministers. Those Member States which together establish multinational forces may also make them available to the common security and defence policy.

Member States shall undertake to improve their military capabilities. A European Armaments, Research and Military Capabilities Agency shall be established to identify operational requirements, to promote measures to satisfy those requirements, to contribute to identifying and, where **necessary**, implementing **appropriate** measures needed to strengthen the industrial and technological base of the defence sector, to participate in defining a European capabilities and armaments policy **consistent with the strengthening of the EU Code of Conduct on Arms Exports**, and to assist the Council of Ministers in evaluating the improvement of military capabilities. **The Agency shall be fully accountable and transparent to Member States and their parliaments. The Agency shall publish an annual report on its activities to be presented to national and European parliaments.**

Member States shall undertake progressively to improve their civilian capabilities. A European Peacebuilding Research and Civilian Capabilities Agency shall be established to identify operational requirements and capability goals, to promote measures to satisfy those requirements, to set common standards for the training and recruitment of personnel for civilian operations, to monitor, review and promote best-practice in the implementation of EU missions and programmes, to promote coherent co-operation between the EU, UN and OSCE, and to support research into the further development of conflict prevention and civilian crisis management instruments and capabilities.

### Part III

#### New Article 213

1. The European Peacebuilding, Research and Civilian Capabilities Agency, subject to the authority of the Council of Ministers, in close cooperation with the European Commission, shall have as its task to:
  - (a) contribute to identifying Member States' civilian capability objectives and operational requirements and evaluating observance of the capability commitments given by the Member States;
  - (b) promote measures to satisfy common operational requirements, including the establishment of a mechanism to co-ordinate the recruitment of civilian personnel and the agreement of common standards for recruitment, training and practice;
  - (c) contribute to the monitoring, review and evaluation of standards in the conduct of EU missions and EC programmes to support the EU's lessons learning processes and promote best-practice;
  - (d) support and promote co-operation with non-governmental organisations engaged in complementary crisis-management and conflict prevention activities;
  - (e) promote coherent co-operation with the UN and OSCE and other regional organisations in the conduct of civilian crisis management activities;
  - (f) support research into the further development of civilian crisis management and conflict prevention instruments and capabilities.
2. The Agency shall be open to all Member States wishing to be part of it. The Council of Ministers, acting by qualified majority, shall adopt a European decision defining the Agency's statute, seat and operational rules. The Agency shall be fully accountable and transparent to Member States and their parliaments. The Agency shall publish an annual report on its activities to be presented to national and European parliaments.