

# THE DEVELOPMENT OF THE EUROPEAN UNION COMMON DEFENSE AND ITS IMPLICATIONS FOR THE UNITED STATES AND NATO

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## I. INTRODUCTION

The European Union (EU) has been developing at a remarkable pace over the last few years, establishing a single market and common currency, as well as planning for enlargement in the near future.<sup>1</sup> However, as yet, there is no established common European military force.<sup>2</sup> This may change in the near future, with an anticipated military force of 60,000 to be operational by 2003.<sup>3</sup> The growth of this common military force is becoming a more preeminent part of the EU agenda since plans for the Rapid Reaction Force (RRF) were finalized at the Helsinki summit in December 1999.<sup>4</sup> The implications for the United States and NATO of a common European military force are uncertain, even though many of the European Union's treaties and official documents specifically address the matter.<sup>5</sup>

The United States and the EU have become close partners over recent decades as the world has become more globalized.<sup>6</sup> The EU is the United

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<sup>1</sup> See Rockwell Schnabel, *Developments in the European Union: Taking Measure of Our Global Partner*, at <http://www.state.gov/p/eur/rls/rm/2002/12237.htm> (last visited Nov. 8, 2002).

<sup>2</sup> See Claus Christian Ahnfeldt-Møllerup, *Military Aspects of the European Security and Defense Policy*, 25 FLETCHER F. WORLD AFF. 83 (2001).

<sup>3</sup> *Council of the European Union: The European Union Military Structures and Capabilities*, at <http://ue.eu.int/pesc/military/en/homeen.htm> (last visited Nov. 4, 2001) [hereinafter *EU Military*].

<sup>4</sup> *The Changing Face of Europe: Q & A on European Defence*, at <http://www.cnn.com/SPECIALS/2000/eurounion/story/defence/qanda.html> (last visited Nov. 5, 2001) [hereinafter *Q & A on Defense*].

<sup>5</sup> TREATY OF AMSTERDAM AMENDING THE TREATY ON EUROPEAN UNION, THE TREATIES ESTABLISHING THE EUROPEAN COMMUNITIES AND CERTAIN RELATED ACTS, Oct. 11, 1997, O.J. © 340) 1 [hereinafter *TREATY OF AMSTERDAM*]; see also *Helsinki European Council: Annex IV of the Presidency Conclusions Helsinki European Council 10 and 11 December 1999*, at <http://ue.eu.int/pesc/military/en/Helsinki.htm> (last visited Nov. 4, 2001) [hereinafter *Helsinki Council*]; *Cologne European Council: Annex III of the Presidency Conclusion's Cologne European Council 3 and 4 June 1999*, at <http://ue.eu.int/pesc/military/en/Cologne.htm> (last visited Nov. 4, 2001) [hereinafter *Cologne Council*].

<sup>6</sup> See Schnabel, *supra* note 1.

States' strongest ally, both economically and militarily.<sup>7</sup> The United States and EU comprise fifty percent of the world's economy, trading \$1.4 trillion annually.<sup>8</sup> Moreover, the EU single market and regulatory reforms have been developing over the past decade, making the EU more unified and competitive with American business interests.<sup>9</sup>

The interaction between the United States and the EU has not been limited to economic matters. The EU has assisted the United States in its fight against terrorism since September 11 by freezing assets and conducting investigations that have brought about the arrest of potential terrorists.<sup>10</sup> The EU has also committed to helping the Afghan people reconstruct and build their country through aid and financial assistance.<sup>11</sup>

The EU and the United States have also worked together towards establishing peace and democracy in the Middle East. While the EU and United States have discussed strategies for peace between Israelis and Palestinians,<sup>12</sup> they will aid and financial assistance. Moreover, despite the present divide between the U.S. and many European countries regarding the war in Iraq, the development of an EU common defense carries the potential of influencing the policy of the United States in future world crises.

This Note will discuss the development of a European Union common defense policy and what it may hold for the future. First, it will discuss the treaties and summits that led to the establishment of a common defense policy. Second, the essay will analyze possible problems that could arise as the common defense is established and implemented. Third, it considers the implications of the policy on the United States and NATO, including the United States' response to the common defense policy and its fears concerning the policy. Finally, this Note suggests how the United States should react to the developing common defense policy while best protecting United States interests, concluding that the United States should support the EU effort while keeping a watchful eye on future developments.

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<sup>7</sup> *Id.*

<sup>8</sup> *Id.*

<sup>9</sup> *Id.*

<sup>10</sup> *Id.*

<sup>11</sup> See *EU Response to 11th September—European Commission Action—Weekly Update*, at [http://europa.eu.int/comm/external\\_relations/news/me01\\_424.htm](http://europa.eu.int/comm/external_relations/news/me01_424.htm) (last visited Nov. 8, 2002).

<sup>12</sup> See Schnabel, *supra* note 1.

## II. THE DEVELOPMENT OF THE COMMON DEFENSE POLICY AND THE COMMON FOREIGN AND SECURITY POLICY

### A. *The Treaty on European Union*

The drafters of the Treaty on the European Union (TEU), or Maastricht Treaty,<sup>13</sup> recognized the need for a common defense policy and incorporated this into the treaty under Title V, which was further enhanced under the Amsterdam Treaty.<sup>14</sup> Article 11 sets out a number of objectives of the Common Foreign and Security Policy (CFSP):

- to safeguard the common values, fundamental interests, independence and integrity of the Union in conformity with the principles of the United Nations Charter;
- to strengthen the security of the Union in all ways;
- to preserve peace and strengthen international security, in accordance with the principles of the United Nations Charter . . .
- to promote international cooperation;
- to develop and consolidate democracy and the rule of law, and respect for human rights and fundamental freedoms.<sup>15</sup>

The EU's desire to uphold the principles of the United Nations while furthering the values of European society and international cooperation is evident in these objectives.<sup>16</sup>

The CFSP is also discussed elsewhere in the TEU.<sup>17</sup> Article 17 focuses on the development of a common defense policy, stating: "The common foreign

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<sup>13</sup> TREATY ESTABLISHING THE EUROPEAN COMMUNITY, Nov. 10, 1997, O.J. (1340) 3 (1997) [hereinafter EC TREATY] (the TEU was signed at Maastricht in 1992).

<sup>14</sup> TREATY OF AMSTERDAM, *supra* note 5.

<sup>15</sup> EC TREATY, *supra* note 13, art. 11; *see also*, U.N. CHARTER, art. 2. The Principles of the United Nations include:

[o]rganization based on the principle of sovereign immunity of all its Members . . . All Members shall settle their international disputes by peaceful means . . . All Members shall refrain from the threat or use of force against the territorial integrity or political independence of any state . . . All Members shall give the United Nations every assistance in any action it takes in accordance with the present Charter.

<sup>16</sup> *See Asteris Pliakos, The Common European Policy on Security and Defense: Some Considerations Relating to its Constitutional Identity*, 6 COLUM. J. EUR. L. 275, 279 (2000).

<sup>17</sup> EC TREATY, *supra* note 13, art. 17.

and security policy shall include all questions relating to the security of the Union, including the progressive framing of a common defense policy . . . which might lead to a common defense, should the European Council so decide."<sup>18</sup> Thus, Article 17 is the integral starting point of the development of a common defense force; the concept has since evolved through subsequent treaties, including the Amsterdam Treaty and the Helsinki Summit.<sup>19</sup>

### *B. The Western European Union*

The Western European Union (WEU) emerged in the 1950s at a time when the idea of a European community was just developing.<sup>20</sup> It was largely in response to the belief, held by some Europeans, that NATO did not adequately represent European solidarity.<sup>21</sup> Originally named the Brussels Treaty Organisation, in 1954 it was renamed the Western European Union under the Paris Agreements of the Modified Brussels Treaty.<sup>22</sup> The initial purpose of the WEU was to coordinate economic activities "in order to promote the economic recovery of Europe."<sup>23</sup> The treaty also created a council in order to "strengthen peace and security and [to promote] unity and [encourage] the progressive integration of Europe and closer co-operation. . . ."<sup>24</sup> The WEU eventually abandoned the economic aspect of the Treaty and focused more on defense, which was also defined in the Paris Agreements.<sup>25</sup> Article V specifically addresses the military obligations of member states: "If any of the High Contracting Parties should be the object of an armed attack in Europe, the

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<sup>18</sup> *Id.*

<sup>19</sup> See TREATY OF AMSTERDAM, *supra* note 5. See also *Helsinki Council*, *supra* note 5.

<sup>20</sup> Cheryl Swack, *Building a Bridge for Defense: The European Union's Common Foreign and Security Policy*, 6 U. MIAMI Y.B. INT'L L. 1, 15 (1997-1998).

<sup>21</sup> *Id.*

<sup>22</sup> Protocol Modifying and Completing the 1948 Treaty for Collaboration in Economic, Social and Cultural Matters and for Collective Self-Defence, Oct. 23, 1954, 211 U.N.T.S. 342, 346 [hereinafter *Modified Brussels Treaty*]; see also *The NATO Handbook: Chapter 15: The Wider Institutional Framework for Security: The Western European Union (WEU)*, at <http://nato.int/docu/handbook/2001/nb1504.htm> (last modified Nov. 4, 2002) [hereinafter *NATO Handbook*]. The Modified Brussels Treaty was signed by Belgium, France, Luxembourg, the Netherlands, the United Kingdom, the Federal Republic of Germany, and Italy. Today the WEU also includes Greece, Portugal, Spain, and Germany (replacing the Federal Republic of Germany). *Id.*

<sup>23</sup> Treaty of Collaboration in Social and Cultural Matters and for Collective Self-Defence, Mar. 17, 1948, 19 U.N.T.S. 51, 55.

<sup>24</sup> Modified Brussels Treaty, *supra* note 22.

<sup>25</sup> Swack, *supra* note 20, at 17.

other High Contracting Parties will . . . afford the Party so attacked all military and other aid and assistance in their power."<sup>26</sup>

The WEU remained virtually inoperable for the next thirty years due to NATO prominence in the Western European security arena.<sup>27</sup> However, in 1984 the Rome Declaration reactivated the WEU with the goal of creating a European arm of NATO.<sup>28</sup> In 1987, the Ministerial Council of the *Western European Union* met to adopt a Platform on Security Interests, declaring its intention to strengthen the European pillar of NATO while providing Europe a security and defense identity of its own.<sup>29</sup>

The TEU specifies that the WEU implements the Common Foreign and Security Policy.<sup>30</sup> Title V, Article 17, states that the WEU

supports the Union in framing the defence aspects of the common foreign and security policy as set out in this Article. The Union shall accordingly foster closer institutional relations with the possibility of the integration of the WEU into the Union, should the European Council so decide.<sup>31</sup>

Thus, the EU and WEU are partners in the development of the CFSP, but the WEU is not a member of the EU.<sup>32</sup> The WEU remains "a legally independent international organization."<sup>33</sup> This may change in the near future as the WEU becomes more synonymous with the EU and as it assumes the role of the implementing institution of the common defense policy.<sup>34</sup>

### C. *The Amsterdam Treaty*

The Amsterdam Treaty, signed on October 2, 1997,<sup>35</sup> modifies the Treaty on the European Union and the European Communities treaties and has been

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<sup>26</sup> Modified Brussels Treaty, *supra* note 22.

<sup>27</sup> See Swack, *supra* note 20, at 19.

<sup>28</sup> See *id.* at 20.

<sup>29</sup> See NATO Handbook, *supra* note 22.

<sup>30</sup> See EC TREATY, *supra* note 13, art. 17.

<sup>31</sup> *Id.*

<sup>32</sup> See Swack, *supra* note 20, at 27.

<sup>33</sup> *Id.*

<sup>34</sup> *Id.* at 36.

<sup>35</sup> See TREATY OF AMSTERDAM, *supra* note 5; Phillippe Manin, *The Treaty of Amsterdam*, 4 COLUM. J. EUR. L., 1, 16 (1998).

incorporated into the two treaties.<sup>36</sup> It takes an important step toward developing the CFSP by establishing a High Representative—the Secretary General of the Council.<sup>37</sup> The High Representative will develop a “policy and early warning unit” which will draw on personnel from the General Secretariat, the Member States, the Commission and the Western European Union.<sup>38</sup> By further developing the CFSP that was called for in the TEU, the Amsterdam Treaty plays a pivotal role in the realization of a common military force.<sup>39</sup>

The Amsterdam Treaty also integrated the so-called “Petersburg Tasks” of “humanitarian and rescue tasks, peace-keeping tasks and tasks of combat forces in crisis management, including peace-making” into the Treaty on the European Union.<sup>40</sup> The “Petersburg Tasks” were developed in the Western European Union Council of Ministers Petersburg Declaration of June 19, 1992.<sup>41</sup> The Council implemented these tasks as part of an overall plan to strengthen the WEU’s operational role by developing military units under the control of the WEU.<sup>42</sup>

#### *D. The Cologne Council: The Response to Kosovo*

The EU nations realized their military weakness after failing to assemble an adequate force in response to the crisis in Kosovo, which caused the EU to rely heavily upon assistance from the United States.<sup>43</sup> Both U.K. Prime Minister Tony Blair and French President Jacques Chirac expressed dismay at the reaction of EU nations and insisted on building a Europe capable of responding to conflict even when the United States does not choose to get involved.<sup>44</sup>

The crisis in the Balkans was the result of a number of events starting in the late 1980s.<sup>45</sup> The death of the Yugoslav leader Tito and the rise of Slobodan

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<sup>36</sup> See Manin, *supra* note 35.

<sup>37</sup> *Id.* at 16.

<sup>38</sup> *Id.*

<sup>39</sup> See *Cologne Council*, *supra* note 5.

<sup>40</sup> *Id.*

<sup>41</sup> See *Western European Union*, at <http://www.weu.int/documents/920619peten.pdf> (last visited Nov. 19, 2002).

<sup>42</sup> See *id.*

<sup>43</sup> See *Q & A on Defense*, *supra* note 4.

<sup>44</sup> See *id.*

<sup>45</sup> See William Bradford, *The Western European Union, Yugoslavia, and the (Dis)Integration of the EU, the New Sick Man of Europe*, 24 B.C. INT'L & COMP. L. REV. 13 (2000).

Milosevic in 1989 marked a profound change in Yugoslavia and the beginning of a decade of conflict in the region.<sup>46</sup> In 1991, Slovenia and Croatia declared their independence despite resistance from the Yugoslav National Army.<sup>47</sup> The ensuing Yugoslav Wars of Dissolution produced genocide and ethnic cleansing throughout the region, prompting action by the EU and NATO.<sup>48</sup> EU diplomats claimed that the EU's response to the crisis would be "Europe's finest hour"; however, differing opinions by EU nations and a lack of consensus halted any collective security measures and led to the subsequent failure of a collective EU response to the Yugoslav crisis.<sup>49</sup>

The crisis in Kosovo peaked in 1998 when the Kosovar Albanians were brutally attacked by Serbian forces, prompting the UN Security Council to declare the crisis a "threat to international peace and security."<sup>50</sup> Serbs atrocities temporarily abated following an October 1998 agreement in which the U.S., backed by NATO, convinced Milesevic's regime to allow international monitors into Kosovo.<sup>51</sup>

Realizing the lessons of Kosovo and the need for a capable military response, EU defense ministers met in November 1998 to discuss cooperation and the development of a viable EU defense.<sup>52</sup> The participants of the meeting focused on fashioning an action plan to "break the monopoly of the U.S., which is trying to resolve the Kosovo problem its own way."<sup>53</sup> The defense ministers also considered ties between the WEU and the EU, concluding that cooperation between the two entities would be essential to a successful military capacity.<sup>54</sup>

By 1999, the Kosovar Albanians and Serbs had reached a stalemate in negotiations.<sup>55</sup> Diplomatic efforts by EU nations had failed to reach an agreement and WEU efforts had not alleviated the crisis.<sup>56</sup> The humanitarian and peacekeeping efforts by the WEU had been too minimal to provide any

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<sup>46</sup> See *id.* at 61.

<sup>47</sup> See *id.* at 26.

<sup>48</sup> *Id.*

<sup>49</sup> *Id.* at 28. See also John J. Kavanagh, *Attempting to Run Before Learning to Walk*, 20 B.C. INT'L & COMP. L. REV. 353 (1997).

<sup>50</sup> See Bradford, *supra* note 45, at 46.

<sup>51</sup> *Id.* at 65.

<sup>52</sup> *Id.* at 66.

<sup>53</sup> *Id.* at 67.

<sup>54</sup> *Id.*

<sup>55</sup> *Id.*

<sup>56</sup> *Id.*

substantial relief,<sup>57</sup> prompting WEU Secretary General Jose Cutillero to concede that the only thing that had been learned from the crisis was that "the U.S. was the key to European stability."<sup>58</sup> Realizing their weakness, the EU turned over all authority and decision-making to the United States and NATO.<sup>59</sup> The EU faced additional problems when EU nations failed to cooperate fully with NATO needs and lacked solidarity in decision-making.<sup>60</sup> NATO, led by the United States, subsequently initiated Operation Allied Force to secure peace in the Balkans.<sup>61</sup> Many European nations refused to consider committing troops to ground operations in Kosovo, although ethnic cleansing was intensifying in the region.<sup>62</sup> The only EU nation that continually pushed for ground forces was the United Kingdom.<sup>63</sup> Moreover, only one third of all air sorties in the war in Kosovo were flown by European aircraft.<sup>64</sup>

On June 3, 1999, NATO accepted the Ahtisaari/Chernomyrdin Plan to enforce peace in Kosovo.<sup>65</sup> The plan included the deployment of 50,000 peacekeepers to ensure that Kosovar Albanians could return to their homes.<sup>66</sup> However, more violence erupted in the region after Albanians sought revenge against ethnic Serbs.<sup>67</sup> More recently, the area continues to be plagued by violence, with many Kosovo refugees remaining in other European countries.<sup>68</sup>

In response to the crisis in Kosovo and the EU's inability to react and commit adequate forces to NATO, the EU nations met in Cologne on June 3, 1999.<sup>69</sup> There, the member states agreed that Europeans "simply have to be willing and able to come to grips with European crises and conflicts, if necessary by our own efforts—before hundreds of thousands of people have been killed and millions have been driven from their homes."<sup>70</sup> The Council

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<sup>57</sup> *Id.*

<sup>58</sup> *Id.*

<sup>59</sup> *Id.* at 67-68.

<sup>60</sup> *Id.* at 68.

<sup>61</sup> *Id.* at 67-68.

<sup>62</sup> *Id.* at 68.

<sup>63</sup> *Id.* at 68-69. It should be noted that no ground troops were ever used during the conflict. Operation Allied Force consisted exclusively of air operations.

<sup>64</sup> *Q & A on Defense*, *supra* note 4.

<sup>65</sup> See Bradford, *supra* note 45, at 71. The Ahtisaari/Chernomyrdin Plan was initiated by the Group of Seven industrialized nations, and Russia and essentially shifted control of the Return of Refugees to their homes from NATO to the UN. *Id.*

<sup>66</sup> *Id.*

<sup>67</sup> *Id.* at 73.

<sup>68</sup> See *id.* at 73-74.

<sup>69</sup> *Id.* at 70.

<sup>70</sup> *Id.* at 66.



placed the Petersberg Tasks of the Amsterdam Treaty at the forefront of the developing CFSP.<sup>71</sup> The Cologne European Council declared:

[t]he Council should have the ability to take decisions on . . . the Petersberg Tasks. To this end, the Union must have the capacity for autonomous action, backed up by credible military forces, the means to decide how to use them, and the readiness to do so, in order to respond to international crises without prejudice to actions by NATO.<sup>72</sup>

The Cologne European Council went on to address its relationship with NATO, stating the need to determine whether it will conduct military operations utilizing NATO capabilities, or operate “without recourse to NATO assets and capabilities.”<sup>73</sup> The Council determined that for operations not using NATO resources, the EU would use national or multinational means including the use of “national command structures providing multinational representation in headquarters.”<sup>74</sup> For operations relying upon NATO assistance, the focus became EU access to NATO capabilities and assets.<sup>75</sup> The Council evinced their belief that coordination with NATO is feasible but also left open the possibility of operations pursued solely by the EU.<sup>76</sup>

#### *E. The Helsinki Summit*

Despite the development of a CFSP in the Amsterdam Treaty and through the Cologne Council, the EU still lacked a definite policy toward developing an actual military force.<sup>77</sup> The EU implemented this policy through the Helsinki European Council, which met on December 10-11, 1999.<sup>78</sup> The Summit, which focused on enlargement, institutional reform, the Common European Security and Defense Policy (ESDP), Chechnya, and Southeast Asia, was deemed a success and a “new chapter in European history” according to

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<sup>71</sup> *European Union in the U.S.: European Security and Defense Policy*, at <http://www.eurunion.org/legislat/Defense/esdpweb.htm> (last visited Oct. 16, 2001) [hereinafter *EU Defense*].

<sup>72</sup> *Id.*

<sup>73</sup> *Cologne Council*, *supra* note 5.

<sup>74</sup> *Id.*

<sup>75</sup> *Id.*

<sup>76</sup> *See id.*

<sup>77</sup> *See EU Defense*, *supra* note 71.

<sup>78</sup> *Id.*

European Commission President Romano Prodi.<sup>79</sup> Dr. Javier Solana, the EU's High Representative for the Common Foreign and Security Policy, reiterated the importance of the decision of the Helsinki Council and the need for the EU to create a capable military force: "The development of an effective ESDP is an important contribution. It will give us the ability, where appropriate and whenever necessary to show that the Union is not prepared to stand idly by in the face of crises. Nor always let others shoulder responsibility."<sup>80</sup>

The Helsinki Summit was pivotal in developing a Headline Goal for Member States that promised momentum in defense policy development:

[b]y the year 2003, cooperating together voluntarily, they will be able to deploy rapidly and then sustain forces capable of the full range of Petersberg tasks as set out in the Amsterdam Treaty, including the most demanding, in operations up to corps level (up to 15 brigades or 50,000-60,000 persons). These forces should be militarily self-sustaining with the necessary command, control and intelligence capabilities, logistics, other combat support services and additionally, as appropriate, air and naval elements. Member States should be able to deploy in full at this level within 60 days, and within this to provide smaller rapid response elements available and deploy very high readiness. They must be able to sustain such deployment for at least one year. This will require an additional pool of deployable units (and supporting elements) at lower readiness to provide replacements for the initial forces.<sup>81</sup>

In addition to the Headline Goal, the Council also set collective capability goals in the areas of command and control, intelligence, and strategic transport.<sup>82</sup> These goals included establishing a joint national headquarters, developing monitoring and early military warning systems, reinforcing rapid reaction capabilities, and increasing the number of readily deployable troops.<sup>83</sup>

Not only did the Council set these ambitious goals, but it also developed permanent military and political bodies which will be pivotal in assuring that

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<sup>79</sup> *European Union in the U.S.: EU Summit in Helsinki Hailed as Start of New Era*, at <http://eurunion.org/news/press/1999/1999084.htm> (last visited Nov. 4, 2001).

<sup>80</sup> *EU Defense*, *supra* note 71.

<sup>81</sup> *See Helsinki Council*, *supra* note 5.

<sup>82</sup> *Id.*

<sup>83</sup> *Id.* at Annex 1.

these goals are actually carried out. A standing Political and Security Committee (PSC) will deal with control and strategic direction of any military crisis action.<sup>84</sup> The Military Committee (MC) will make recommendations to the PSC and will provide guidance to the Military Staff (MS), which will be composed of Chiefs of Defence.<sup>85</sup> The MS will provide military expertise and perform strategic planning for the Petersberg Tasks.<sup>86</sup> The Council also set up interim bodies that took effect as of March 2000.<sup>87</sup>

Due to the need for humanitarian aid that became evident during the Kosovo crisis, the Helsinki Council also outlined a non-military crisis response plan.<sup>88</sup> The council included in the plan an "inventory" of all tools available to the EU, noting that "the Member States, the Union, or both have accumulated considerable experience or have considerable resources in a number of areas such as civilian police, humanitarian assistance, administrative and legal rehabilitation, search and rescue, electoral and human rights monitoring, etc."<sup>89</sup> The Council also formulated an Action Plan to demonstrate the EU's ability to handle crisis management using non-military instruments.<sup>90</sup> This includes developing a rapid reaction capability, an inventory of resources, and a database to track the improvement of assets and capabilities.<sup>91</sup>

Although the Helsinki European Council set out concrete goals and plans for the implementation of a common defense force, it did not establish the nature and scope of member state obligations to ensure the Headline Goal is reached. These commitments were developed at the Capabilities Conference on November 20, 2000.<sup>92</sup> Each Member State promised national contributions

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<sup>84</sup> *Id.*

<sup>85</sup> *Id.*

<sup>86</sup> *Id.*

<sup>87</sup> Interim measures include:

(a) A standing interim political and security committee to take forward under the guidance of the Political Committee the follow up of the Helsinki European Council by preparing recommendations on the future functioning of the CESDP and to deal with CFSP affairs on a day-to-day basis in close contacts with the SG/HR (Secretary General/High Representative); (b) An interim body of military representatives of Member States' Chiefs of Defence is established to give military advice; (c) The Council Secretariat will be strengthened by military experts to assist work on the CESDP.

*Id.* at Annex 1.

<sup>88</sup> *Id.* at Annex 2.

<sup>89</sup> *Id.*

<sup>90</sup> *Id.*

<sup>91</sup> *Id.*

<sup>92</sup> See *EU Military Structures: Military Capabilities Commitment Declaration*, at <http://ue>.

toward achieving the Headline Goal.<sup>93</sup> According to the "Force Catalog" which sets out these contributions, by 2003, "the Union will be able to carry out the full range of Petersberg tasks, but . . . certain capabilities need to be improved both in quantitative and qualitative terms in order to maximize capabilities available to the Union."<sup>94</sup> Concerning forces and strategic capabilities, these commitments make it possible to quantitatively meet the goal of 60,000 deployable military personnel and the goal of a national or multinational headquarters.<sup>95</sup> However, in the areas of intelligence and strategic air and naval transport facilities, improvements are needed to ensure that the EU will be equipped to fulfill the Petersberg Tasks.<sup>96</sup> The Member States also agreed to medium and long term projects to improve their operational and strategic capabilities.<sup>97</sup>

To ensure that progress is being made toward establishing a common defense, the Member States established an evaluative mechanism.<sup>98</sup> The review process will rely upon consultation between Member States and data from existing NATO planning and review procedures to assess progress made towards reaching the Headline Goal.<sup>99</sup> The States also declared that a document would be drafted outlining arrangements between NATO and the EU.<sup>100</sup>

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[eu.int/pesc/military/en/CCC.htm](http://eu.int/pesc/military/en/CCC.htm) (last visited Nov. 4, 2001).

<sup>93</sup> *Id.* at para. 4.

<sup>94</sup> *Id.*

<sup>95</sup> *Id.*

<sup>96</sup> *Id.*

<sup>97</sup> *Id.* at para. 5. These projects include:

improving the performance of European forces in respect of the availability, deployability, sustainability and interoperability of those forces; developing strategic capabilities: strategic mobility to deliver the forces rapidly to the field of operations; headquarters to command and control the forces and the associated information and communication system . . . strengthening essential operational capabilities in the framework of a crisis . . . restructuring European defence industries.

*Id.*

<sup>98</sup> *Id.* at para. 6.

<sup>99</sup> *Id.*

<sup>100</sup> *Id.*

## III. PROBLEMS OF THE COMMON DEFENSE POLICY

Although it is likely that the EU will be able to assemble the 60,000 troops promised in the Headline Goal,<sup>101</sup> the proposed military force faces a number of problems which could impede its success in the future.<sup>102</sup> Specifically, the EU may encounter non-cooperation between Member States as it did during the Kosovo crisis;<sup>103</sup> it may also need to further define its relationship with NATO. In addition, it is imperative that the EU Member States further develop their military and intelligence capabilities before becoming an operational force.<sup>104</sup> There is also the language barrier issue that may hinder cooperation between member states.<sup>105</sup> These issues present legitimate obstacles that the EU common defense and CFSP will likely need to overcome before the EU can establish an operational defense force.

*A. Non-Cooperation Between Member States*

During the crisis in the Balkans, the lack of cooperation among member states emerged as a significant problem for the EU.<sup>106</sup> The EU failed to show a unified front during the Bosnian crisis, and this failure worsened with the threat of violence in Kosovo in 1999.<sup>107</sup> When NATO air campaigns in Kosovo met with little initial success, many EU nations, such as France, Belgium, Italy, and Greece, called for a halt to the use of air attacks.<sup>108</sup>

In addition, some EU nations, such as Sweden and Ireland, are traditionally neutral, which may also hinder the deployment of troops in the future.<sup>109</sup> These different policies and philosophies pertaining to defense will be difficult to rectify because many of these tendencies are deeply ingrained in the institutions and politics of the individual member states.<sup>110</sup> It is unlikely that Member States will be easily persuaded by their fellow EU nations to adopt an unfamiliar security and defense posture. This lack of cooperation and unity

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<sup>101</sup> *Id.*

<sup>102</sup> See Ahnfeldt-Mollerup, *supra* note 2, at 84.

<sup>103</sup> See Kavanagh, *supra* note 49, at 361-62.

<sup>104</sup> See *Q & A on Defense*, *supra* note 4.

<sup>105</sup> See Ahnfeldt-Mollerup, *supra* note 2, at 84.

<sup>106</sup> See Kavanagh, *supra* note 49, at 361.

<sup>107</sup> See *id.*; see also Bradford, *supra* note 45, at 68.

<sup>108</sup> See Bradford, *supra* note 45, at 68.

<sup>109</sup> *Q & A on Defense*, *supra* note 4.

<sup>110</sup> Pliakos, *supra* note 16, at 285.

could stifle the EU common defense and hamper its effectiveness. The EU needs to reconcile these differences and present a viable solution in order to establish a competent defense force.

Cooperation is especially essential since the CFSP requires unanimity between Member States before taking action.<sup>111</sup> One member state can stop the action of all. The only way that joint action may be taken without unanimity is on a qualified majority basis, but it must first be unanimously agreed upon to resort to a qualified majority vote.<sup>112</sup> Enlargement of the EU may only exacerbate the problem of unanimity.<sup>113</sup> The EU currently has fifteen member states, but it will gain ten new members, mostly from eastern Europe in 2004.<sup>114</sup> With this influx of new members, achieving unanimity may be even more challenging, in which case it may be more efficient to adopt a qualified majority decision-making process rather than face frequent stalemate.<sup>115</sup>

### *B. Cooperation and Coordination with NATO*

The second problem the EU common defense faces is cooperation and coordination with NATO. The EU cannot deploy forces if NATO is already engaged<sup>116</sup> because all troops that are anticipated to be allotted to the EU force would already be assigned to NATO.<sup>117</sup> The EU force is only being "double hatted" for NATO and the EU.<sup>118</sup> EU ministers insist that they are not developing a "mini-NATO" or attempting to take over NATO functions.<sup>119</sup> The force will have to use NATO capabilities and intelligence, however, to make the operations functional in the near future.<sup>120</sup> Therefore, if the EU wants to participate, it must get permission from NATO before it can do so.<sup>121</sup> Since a common defense force could only be deployed when NATO is not engaged, the EU may be unable to respond to certain crisis situations that

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<sup>111</sup> See EC TREATY, *supra* note 13, at art. 23. See also Kavanagh, *supra* note 49, at 361.

<sup>112</sup> EC TREATY, *supra* note 13, at art. 23.

<sup>113</sup> Kavanagh, *supra* note 49, at 362.

<sup>114</sup> *Id.*

<sup>115</sup> See Kavanagh, *supra* note 49, at 361.

<sup>116</sup> See Ahnfeldt-Møllerup, *supra* note 2, at 84.

<sup>117</sup> *Id.*

<sup>118</sup> *Id.* The EU force is essentially the same force allotted to NATO. They wear both the "hat" of NATO and the EU.

<sup>119</sup> See *Q & A on Defense*, *supra* note 4.

<sup>120</sup> *Id.*

<sup>121</sup> See *id.*

threaten the security of its members because its troops are already committed to NATO.

Another related issue is that some EU nations are members of NATO while others are not. Austria, Finland, Sweden, and Ireland, for example are all members of the EU, but are not members of NATO.<sup>122</sup> Likewise, there are a number of NATO members, such as the United States and Canada, that do not belong to the EU.<sup>123</sup> In order to foster economic and military relationships, the EU has invited the United States and Canada and those nations applying for membership to the EU to commit their military resources.<sup>124</sup>

The EU Member States should also enhance their military capabilities and intelligence if they intend to operate a military force without assistance from the United States or NATO.<sup>125</sup> EU nations currently lack any headquarters that could direct a major air campaign;<sup>126</sup> only NATO and the United States have these air capabilities.<sup>127</sup> The EU also lacks the military intelligence to conduct a mission in a foreign country, and would need assistance and access to NATO intelligence to do so.<sup>128</sup> While the EU desires to have the capability to defend Europe with less dependency on the United States, the very defense policy it initiates will likely not succeed without assistance from the United States.<sup>129</sup> If the United States decides to contribute intelligence or headquarters to the defense, and then later withdraws this support, the EU force would likely fail.<sup>130</sup> This dependency must be alleviated before the EU can create a legitimate independent defense force.

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<sup>122</sup> *Id.*

<sup>123</sup> *Id.*

<sup>124</sup> See *EU Military Structures: Military Capabilities Commitment Declaration*, at <http://ue.eu.int/pesc/military/en/CCC.htm> (last visited Nov. 4, 2001).

<sup>125</sup> See Ahnfeldt-Møllerup, *supra* note 2, at 84.

<sup>126</sup> *Id.*

<sup>127</sup> *Id.*

<sup>128</sup> *Id.*

<sup>129</sup> See *id.* at 85.

<sup>130</sup> *Id.* In many cases, one would guess that the U.S. would be quite happy to let Europe carry part of the burden in an international crisis, particularly if the Europeans can shoulder the commitment of ground troops while the U.S. provides only intelligence, strategic transport, and other forms of air support. However, if there is a risk of a later deployment of American ground forces, the U.S. could veto its own or NATO's support of the operation, thereby making it impossible to carry out. *Id.*

*C. Costs of Military Capabilities*

The EU must also account for the costs of a capable military presence, including an adequate number of military personnel. Most EU nations have been reducing their spending on defense since the end of the Cold War, weakening their military capabilities.<sup>131</sup> EU officials, such as U.K. Defence Secretary Geoff Hoon, have commented on this weakness: "[t]oo few of them are readily and rapidly deployable to crisis areas. . . . They are not structured to sustain themselves in a theatre of operations for extended periods. In short, too many of them are not fit to face today's challenges."<sup>132</sup> European nations spend, on average, 2.2 percent of their GDP on defense<sup>133</sup> compared to 3.2 percent in the United States.<sup>134</sup> The only EU country spending a higher percentage than the United States is Greece, which spends 4.8 percent of its GDP on defense.<sup>135</sup> While the United States spends \$290 billion a year on defense, the EU nations spend a total of \$190 billion a year.<sup>136</sup> Moreover, the money that is spent on defense by EU nations is invested with only ten percent of the effectiveness as the United States.<sup>137</sup> EU nations need to realize the costs and increased capacities necessary to sustain a effective rapid reaction force. The current budget for the force is \$150 billion, which officials hope will provide a "small, but powerful, pan-European force."<sup>138</sup> To continue this force, however, EU nations must commit more funds and equipment than they have in the last decade.

Sustaining 60,000 deployable troops and adequate equipment is also a challenge.<sup>139</sup> Maintaining the force will require a pool of approximately 240,000 military personnel.<sup>140</sup> To date, 100,000 troops, 100 ships and 400 combat aircraft have been committed to the force.<sup>141</sup> The EU estimates that

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<sup>131</sup> *Q & A on Defense*, *supra* note 4.

<sup>132</sup> *Id.*

<sup>133</sup> Bill Cash, *European Integration: Dangers for the United States*, 1 CHI. J. INT'L L. 315, 320 (2000).

<sup>134</sup> *See Q & A on Defense*, *supra* note 4.

<sup>135</sup> *Id.*

<sup>136</sup> *Id.*

<sup>137</sup> *See* Peter Humi, *France Plays Key Role in New Europe*, <http://www.cnn.com/SPECIALS/2000/eurounion/story/correspondents/humi.html> (last visited Jan. 8, 2002).

<sup>138</sup> *Id.*

<sup>139</sup> *See Q & A on Defense*, *supra* note 4.

<sup>140</sup> *Id.*

<sup>141</sup> *See* Robin Oakley, *Europe Moves into the Defence Business*, at <http://www.cnn.com/SPECIALS/2000/eurounion/story/defence/> (last visited Jan. 8, 2002).



sixty roll-on, roll-off ships will be needed for airlift, and yet only ten were promised.<sup>142</sup>

#### *D. The Language Barrier*

There is also a language barrier which may hinder the proposed common defense.<sup>143</sup> The fifteen EU countries collectively speak eleven different languages.<sup>144</sup> While the official military language of NATO is English, it is unclear whether the EU military force will observe this, and indeed whether one language could be adopted for this multinational force.<sup>145</sup> EU leaders solved the problem initially by vesting the control of units with the individual states,<sup>146</sup> but when the units are gathered collectively for operations, language barriers threaten the force's effectiveness.<sup>147</sup>

During a summit in Brussels on December 15, 2001, EU leaders announced that their nascent rapid-reaction force is operational, and that it will be able to deploy forces by 2003.<sup>148</sup> Although this is likely, the EU has a long journey ahead before it can meet and sustain its Headline Goal. The EU nations have to continue to support the defense policy and devote more money and equipment to making the endeavor a success. Only with cooperation between states will the force be effective and able to achieve its goals.

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EU officials are working on the basis of 13,500 troops from Germany, 12,500 each from the United Kingdom and France, 6,000 each from Italy and Spain, 5,000 from the Netherlands, 3,500 from Greece, 2,000 each from Finland and Austria, 1,500 from Sweden and 1,000 each from Belgium, Ireland and Portugal. Luxembourg was offering 100 troops but Denmark had pledged none.

*Id.*

<sup>142</sup> See *Q & A on Defense*, *supra* note 4.

<sup>143</sup> See Ahnfeldt-Møllerup, *supra* note 2, at 84.

<sup>144</sup> *European Commission: Bulletin of the European Union*, at <http://europa.eu.int/abc/doc/off/bull/en/welcome.htm> (last visited Nov. 8, 2002).

<sup>145</sup> See Ahnfeldt-Møllerup, *supra* note 2, at 84.

<sup>146</sup> See Oakley, *supra* note 141. "Contributing units will remain under national control and there will not be a standard uniform, only a common insignia. Geoff Hoon, the United Kingdom defense secretary, was explicit about the arrangements: 'No European army, no European cap badges, no European flags, a British contribution to European co-operation firmly under British control and deployed at the behest of a British minister.' *Id.*

<sup>147</sup> See Ahnfeldt-Møllerup, *supra* note 2, at 84-85.

<sup>148</sup> See Jeffrey Ulbrich, *Expansion of EU to Usher in Changes*, ATLANTA J.-CONST., Dec. 16, 2001, at B2.

## IV. IMPLICATIONS FOR THE UNITED STATES

*A. The American Response*

While the United States initially harbored reservations about a common defense policy for the EU due to fears that it would overtake and interfere with NATO, many of those fears have been replaced by a belief that the impact will be favorable to the United States.<sup>149</sup> The United States has thus developed a more cooperative attitude towards the EU with regard to its common defense efforts.<sup>150</sup> However, the United States' cooperation is conditioned on certain goals that the EU must meet before it gives wholehearted support.<sup>151</sup>

In the early 1990's, the United States had significant reservations about an increased EU military capability.<sup>152</sup> With the introduction of the WEU in the Treaty on European Union, the United States suspected that the American military presence in Europe could be undermined.<sup>153</sup> The United States was concerned that the WEU would divert Europe's attention away from NATO, thereby weakening U.S. influence in European security affairs.<sup>154</sup> The conflict in the Balkans furthered differences in policy and strategies between NATO, the European nations, and the United States.<sup>155</sup> These negative U.S. attitudes towards the EU and WEU changed in the mid 1990s with the introduction of "Partnership for Peace," a program that aims to expand NATO's cooperation with central and eastern European countries, with an eye toward future enlargement. Bet central and eastern European countries.<sup>156</sup> With the enlargement of NATO and the realization that the WEU had significantly weaker military capabilities, the United States was assured that NATO would remain the preeminent military institution in Europe.<sup>157</sup>

Due to this assurance of NATO's role as the predominant multilateral military and defense institution in Europe, the United States has supported EU

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<sup>149</sup> See James Garenone, *Department of Defense: U.S. Proposes 'More Positive' Vision of NATO-EU Partnership*, at [www.defenselink.mil/news/Oct2000/n10102000\\_200010101.html](http://www.defenselink.mil/news/Oct2000/n10102000_200010101.html) (last visited Jan. 21, 2002).

<sup>150</sup> *Id.*

<sup>151</sup> *Id.*

<sup>152</sup> See THE NEW TRANSATLANTIC AGENDA AND THE FUTURE OF EU-US RELATIONS 22 (Jorg Monar ed., 1998).

<sup>153</sup> *Id.*

<sup>154</sup> *Id.*

<sup>155</sup> *Id.* at 23.

<sup>156</sup> *Id.* at 24.

<sup>157</sup> *Id.*

efforts to build a more capable military force.<sup>158</sup> The U.S. Department of Defense openly gave the EU its support in a December 2000 report on strengthening transatlantic security.<sup>159</sup> The report states: “[t]he United States welcomes European efforts to increase their contribution to collective defense and crisis response operations within NATO and to build a capacity to act militarily under the EU where NATO as a whole is not engaged.”<sup>160</sup> Then-Secretary of Defense William Cohen had first voiced these sentiments in a meeting with NATO defense ministers the previous October.<sup>161</sup> He stated:

[i]t is clear that in the future NATO will no longer be the only major multilateral structure with a role in responding to crises, including military crises, which could effect European stability and security . . . . Let me be clear on America’s position: We agree with this goal—not grudgingly, not with resignation, but with wholehearted conviction.<sup>162</sup>

The United States seems to be sending a message to the world that it would support the EU common defense policy. However, there are still a number of areas of the common defense policy about which the Department of Defense has voiced some concerns.<sup>163</sup> The EU and NATO must realize that they are mutually reinforcing and equally important in the European defense arena.<sup>164</sup> The members of both organization should be treated with equal respect, facilitating frequent communication between the two.<sup>165</sup>

Members of the United States Senate and experts invited to a recent Senate Hearing responded to the EU common defense policy with the same positive, if cautious, attitude.<sup>166</sup> The resounding response was a reassurance that the United States supports the EU in this endeavor, but there are a number of

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<sup>158</sup> See *A U.S. Strategy for the 21st Century: Strengthening Transatlantic Security*, Department of Defense, December 2000, at <http://www.defenselink.mil/pubs/eurostrategy2000.pdf> (last visited Jan. 21, 2002) [hereinafter *Transatlantic Security*].

<sup>159</sup> *Id.*

<sup>160</sup> *Id.* at 2.

<sup>161</sup> See Garemore, *supra* note 149.

<sup>162</sup> *Id.*

<sup>163</sup> *Id.*

<sup>164</sup> *Id.*

<sup>165</sup> *Id.*

<sup>166</sup> See *NATO and the EU’s European Security and Defense Policy: Hearing Before the European Subcommittee of the Senate Foreign Relations Committee*, 107th Cong. (Mar. 9, 2000) [hereinafter *Foreign Relations Hearing*].

problems Europe should address, especially pertaining to relations with NATO.<sup>167</sup> The Chairman of the European subcommittee of the Senate Foreign Relations Committee, Senator Gordon Smith, commented, "I am confident that the EU's [European Security and Defense Policy] project has the potential to strengthen the transatlantic partnership."<sup>168</sup> Similar affirmations were heard from the State Department assistant secretary for European affairs, Ambassador Marc Grossman.<sup>169</sup>

The Senate Hearing acknowledged the advantages of the EU common defense policy and the effect it could have on the United States.<sup>170</sup> The consensus was that the increased European military capacity will make NATO stronger and lift some of the burden from the United States, which had "the possibility of being a win-win proposition for everybody."<sup>171</sup> The Senate Hearing also reiterated that Kosovo was a recent reminder of the imbalance of strengths in NATO, and the lack of capabilities and cooperation within the EU.<sup>172</sup>

Like many in the Department of Defense, some participants of the Hearing also expressed concerns about the common defense policy, especially weaknesses that could cause the policy to falter.<sup>173</sup> Many felt that the United States should demand reassurance that the common defense policy will support NATO, rather than weaken and pull apart the Alliance.<sup>174</sup> Currently, many feel that there are no coherent communication links between NATO and the EU.<sup>175</sup> NATO and the EU "walk past one another like two ships passing in the

<sup>167</sup> *Id.*

<sup>168</sup> *Id.* at 1.

<sup>169</sup> "I think this can be a good thing . . . for the United States." *Id.* (statement of Marc Grossman, Assistant Secretary of State for European Affairs).

<sup>170</sup> *See id.*

<sup>171</sup> *Id.* at 3.

<sup>172</sup> *Id.* (statement of Hon. Franklin d. Kramer, Assistant Secretary of Defense for International Security Affairs, Department of Defense).

<sup>173</sup> *Id.* (statement of Senator Smith).

<sup>174</sup> *Id.* (opening remarks of Senator Smith and Statement of F. Stephen Larrabee, Ph.D., Senior Staff Member, Rand Corporation)

[i]n short, a lot depends on how ESDI is managed. Done right, with close cooperation and transparency between NATO and the EU, ESDI could strengthen the transatlantic relationship and the ability of NATO to act more effectively in a crisis. But done wrong, it could end up weakening the transatlantic relationship. Hence it is imperative to ensure that the project is managed well from the outset.

*Id.*

<sup>175</sup> *Id.* (opening remarks of Senator Smith).

night . . . largely because some of the Europeans do not want the United States to interfere in their decision process."<sup>176</sup> Communication is also key to United States support, and planning between NATO and the EU should be done in close cooperation to avoid taking away forces that already have NATO commitments.<sup>177</sup> Moreover, the United States has a vested interest as a non-EU NATO member to attaining "special status" for access to EU deliberations and decisions.<sup>178</sup>

Senator Gordon Smith also recognized the lack of EU military capabilities and resources needed to update these capabilities.<sup>179</sup> Without adequate military resources, the EU could be building "hollow institutions" unequipped for any credible response to crises.<sup>180</sup> While the EU is reallocating resources, it has yet to increase its budget, leaving many to doubt the effectiveness of the military force.<sup>181</sup>

The Senate Hearing also addressed the limited scope of the rapid reaction force. While it is designed for peacekeeping and humanitarian aid, there are a number of crises which require more strength and military force, implicating lessons learned from Kosovo.<sup>182</sup> The United States wants to see the EU become more militarily independent, but in the long run, it feels the 60,000 person force may be a very weak partner in the most vulnerable parts of the world.<sup>183</sup>

The consensus from the Senate Hearing is that the EU has the support of the United States, but there are certain problems and weaknesses that the EU must address that threaten further cooperation between the EU and the United States.<sup>184</sup> The United States and the EU continue to communicate on all defense and security matters, with the United States keeping in close contact with Javier Solana, the EU's High Representative for the Common Foreign and Security Policy, as issues and crises evolve in Europe.<sup>185</sup>

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<sup>176</sup> *Id.* (remarks of Senator Smith).

<sup>177</sup> *Id.*

<sup>178</sup> *Id.* (statement of Ambassador Grossman).

<sup>179</sup> *Id.* (statement of Senator Smith).

<sup>180</sup> *Id.*

<sup>181</sup> *Id.*

<sup>182</sup> *Id.* (statement of Dr. Larrabee and Mr. Robert E. Hunter, Senior Advisors, Rand Corporation).

<sup>183</sup> *Id.* (statement of Senator Hunter).

<sup>184</sup> *See id.*

<sup>185</sup> Peter Riddell, *Powell finds EU the place to phone a friend*, TIMES (LONDON), Dec. 12, 2001, at Features.

*B. Implications for the United States and NATO*

It seems that the U.S. response to the EU common security and defense policy is correct in that it will likely strengthen the U.S.-EU partnership through working alongside NATO. First, the text of the treaties and conventions which have developed the common defense are clearly designed not to undermine or duplicate NATO; this fear had historically accounted for most of the United States' hesitation. Second, the current size of the EU military force is significantly smaller in comparison to U.S. forces, and it is unlikely to be any threat to U.S. military dominance. Third, although initially the EU defense force will not significantly lower the burden the United States shoulders as the key military power in NATO, it could eventually result in a more equal role for the United States in the European theater. This potential equality may raise fears that the United States will be left out of important military decisions;<sup>186</sup> however, as the United States is the world's only remaining superpower, the EU would need support from the United States before undertaking any major military operation on its own.<sup>187</sup>

An examination of the treaties, summits and councils developing the common defense policy confirms that NATO will still remain the key security institution in Europe,<sup>188</sup> quieting U.S. fears to the contrary.<sup>189</sup> The Treaty on European Union, incorporating the Treaty of Amsterdam that established the provisions on the common foreign and security policy, specifically addresses NATO obligations by member states. Article 17 under Title V, Provisions on a Common and Foreign Security Policy, states:

[t]he policy of the Union in accordance with this Article shall not prejudice the specific character of the security and defense policy

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<sup>186</sup> Cash, *supra* note 133, at 322.

Even were Europe successful in establishing a common defense force, past events suggest that the policy which that force would be called upon to implement would depart significantly from America's own. Thus, the potential savings to the United States of Europe by taking control of its own defense are outweighed by the damage that European forces would, through the trade and foreign policies that they would be called upon to underwrite, inflict upon US interests.

*Id.*

<sup>187</sup> See Ahnfeldt-Møllerup, *supra* note 2, at 86.

<sup>188</sup> See EC TREATY, *supra* note 13. See also *Cologne Council*, *supra* note 5; *Helsinki Council*, *supra* note 5.

<sup>189</sup> See Cash, *supra* note 133, at 321.

of certain Member States, which see their common defence realized in the North Atlantic Treaty Organization (NATO), under the North Atlantic Treaty and be compatible with the common security and defence policy established within that framework.<sup>190</sup>

This Article ensures that the CFSP will not interfere with NATO relations nor compromise the NATO obligations of the Member States, thereby assuming NATO prominence and importance.

In anticipation of integrating the WEU into the EU common defense policy, the Treaty of Amsterdam made several important statements concerning the WEU and NATO.<sup>191</sup> In particular, the provisions addressed cooperation with NATO in several respects, including "mechanisms for consultation between WEU and NATO in the context of a crisis . . . [WEU] active involvement in NATO defence planning process . . . [and] operational links between WEU and NATO for the planning, preparation and conduct of operations using NATO assets . . ."<sup>192</sup> These provisions also recognize the importance of NATO in communicating goals and policies between the Allies.<sup>193</sup> The Helsinki European Council which established the Headline Goal<sup>194</sup> confirmed the EU's belief that NATO would remain the foundation of European defense and security.<sup>195</sup> Most importantly, the Council permits military participation solely in areas "where NATO as a whole is not engaged."<sup>196</sup> By incorporating this limitation on when the common defense will be deployed, the Council circumvented any legitimate challenge by non-EU NATO states that the EU was taking power and resources away from NATO. Instead, the Helsinki Council insisted its efforts would only strengthen and improve NATO.<sup>197</sup>

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<sup>190</sup> See EC TREATY, *supra* note 5, art. 17.

<sup>191</sup> See *id.*

<sup>192</sup> *Id.* at Declaration Relating to the Western European Union.

<sup>193</sup> *Id.* "It [NATO] remains the essential forum for consultation among Allies and the framework in which they agree on policies bearing on their security and defence commitments under the Washington Treaty." *Id.*

<sup>194</sup> See *Headline Goal*, *supra* note 81.

<sup>195</sup> See *Helsinki Council*, *supra* note 5. "NATO remains the foundation of the collective defence of its members, and will continue to have an important role in crisis management."

<sup>196</sup> *Id.*

<sup>197</sup> *Id.* "Determination to carry out Petersberg tasks will require Member States to improve national and multinational military capabilities, which will at the same time, as appropriate, strengthen the capabilities of NATO and enhance the effectiveness of the Partnership for Peace (PfP) in promoting European security."

Similarly, the Council also addressed cooperation and consultation with non-EU countries and NATO:

[t]he Union will ensure the necessary dialogue, consultation and cooperation with NATO and its non-EU members, other countries who are candidates for accession to the EU as well as other prospective partners in EU-led crisis management, with full respect for the decision-making autonomy of the EU and the single institutional framework of the Union.<sup>198</sup>

Specifically, structures will be set up to facilitate dialogue.<sup>199</sup> These structures will ensure consultation between the EU and these countries if a crisis were to occur.<sup>200</sup> If an operation were to take place that would utilize NATO assets and capabilities, these non-EU NATO countries may participate if they wish to do so.<sup>201</sup> Even if an operation would not use any NATO resources, the Council is permitted to invite non-EU NATO countries to participate.<sup>202</sup>

By establishing structures to facilitate a flow of communication between NATO and non-EU members such as the United States, the EU assures consultation in the event of a conflict.<sup>203</sup> Presenting these countries with the option to participate also serves to quiet fears that the EU will be using NATO resources without the consent and support of NATO countries. The EU is in effect giving its biggest and most powerful ally, the United States, an invitation to participate and consult with the EU. Even though the EU does want to create its own defense force, it does not necessarily follow that the EU wants to discard NATO and compete with the United States in the security sphere.<sup>204</sup> The lessons of the past reveal that the possibility of the EU standing on its own without any military dependence on the United States is unlikely in the near future.<sup>205</sup>

The EU support of NATO also implies that the common defense will strengthen rather than weaken the Alliance. NATO Secretary General Lord Robertson spoke for the Alliance, recognizing the need for stronger European

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<sup>198</sup> *Id.*

<sup>199</sup> See *Helsinki Council*, *supra* note 5, at Annex 1.

<sup>200</sup> *Id.*

<sup>201</sup> *Id.*

<sup>202</sup> *Id.*

<sup>203</sup> See *Foreign Relations Hearing*, *supra* note 166; see also *Helsinki Council*, *supra* note 5.

<sup>204</sup> See Ahnfeldt-Møllerup, *supra* note 2, at 86.

<sup>205</sup> See Bradford, *supra* note 45, at 84.



capacities and support from the United States.<sup>206</sup> "The relationship between North America and Europe has simply had to evolve, if it is to be preserved in the long term."<sup>207</sup> Robertson pointed out two main reasons to support a stronger European defense capacity.<sup>208</sup> First, Europe needs to share its burden of military costs in order to make a greater contribution to NATO.<sup>209</sup> By improving its defense capabilities, the EU also strengthens NATO and will be better positioned to contribute to operations.<sup>210</sup> Second, a stronger Europe will be better able to respond to crises and challenges that the United States chooses not to pursue.<sup>211</sup> European defense capabilities will give the United States and Europe the flexibility to respond to situations in pursuit of their needs and interests.<sup>212</sup> In furtherance of its support of the EU, NATO promised its support of the common defense through the use of its assets and capabilities where NATO is not engaged.<sup>213</sup> Relations and communications between the two entities are also taking place not only to ensure constant cooperation, but also to ensure the accuracy of the exchange of information.<sup>214</sup> In sum, NATO believes the development of the EU common defense can enhance the relationship between NATO, the EU, and the United States.<sup>215</sup>

The text of the articles developing the common defense support the notion that the EU defense will not threaten NATO dominance or cohesion as some Americans may fear. The EU desires a close relationship with NATO, consisting of frequent communications and the sharing of assets and capabilities.<sup>216</sup> The stipulation that the EU will only respond where NATO is not engaged is further evidence that the EU recognizes the preeminence of NATO and has no designs to diver attention away from the Alliance. By becoming a stronger defensive force, the EU is also becoming a stronger and more reliable partner for both NATO and the United States.

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<sup>206</sup> See Lord Robertson, *Why NATO Supports a Stronger Europe*, at <http://www.nato.int/docu/articles/2000/900/205a.htm> (last visited Nov. 18, 2002).

<sup>207</sup> *Id.*

<sup>208</sup> *Id.*

<sup>209</sup> *Id.*

<sup>210</sup> *Id.*

<sup>211</sup> *Id.*

<sup>212</sup> *Id.* "A stronger Europe won't mean less NATO, but it will mean that Europe and North America will have more flexibility in choosing a response. Again, a win-win situation on both sides of the Atlantic."

<sup>213</sup> *Id.*

<sup>214</sup> *Id.*

<sup>215</sup> *Id.*

<sup>216</sup> See *Helsinki Council*, *supra* note 5. See also *Q & A on Defense*, *supra* note 4.

Those who fear that the proposed EU force is a military threat to the United States have little cause for anxiety.<sup>217</sup> The United States remains the defensive powerhouse of the world by maintaining technologically advanced capabilities and a large military force.<sup>218</sup> The mere size of the United States military, in terms of active personnel, further highlights the small size deployable force of the EU. The United States military today includes 1.37 million active military personnel and 1.28 million standby and ready reserves.<sup>219</sup> The number of active personnel alone is over twenty times that of the EU Headline Goal of 60,000. Of these active personnel, 1,129,747 are stationed in the United States.<sup>220</sup> In Europe, there are 118,149 U.S. active personnel stationed in 38 countries, including many EU Member States.<sup>221</sup> This figure alone is twice as large as the proposed EU force.

The United States also has superior capabilities and a larger budget with which to work.<sup>222</sup> The U.S. military budget for the 2002 fiscal year is \$312 billion, compared with the EU budget of \$150 billion.<sup>223</sup> An analysis and comparison of equipment and spending of EU nations is indicative of the extreme disparities between the United States and the countries comprising the EU common defense force. Even the military strength of the two EU countries that spend the most on defense, the United Kingdom and Germany, is considerably smaller than that of the United States.<sup>224</sup> The defense budget for the United Kingdom for 1998 was \$37.2 billion dollars.<sup>225</sup> The same year, the United Kingdom had 210,940 active armed forces personnel and 319,000 reserve personnel.<sup>226</sup> In terms of equipment, the army of the United Kingdom had 545 main battle tanks, 693 armored personnel carriers, and 459 total

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<sup>217</sup> Ahnfeldt-Mollerup, *supra* note 2, at 86-87.

<sup>218</sup> *See id.*

<sup>219</sup> Department of Defense, *DOD at a Glance*, at [www.defenselink.mil/pubs/almanac/](http://www.defenselink.mil/pubs/almanac/) (last visited Jan. 21, 2002) [hereinafter *DOD*].

<sup>220</sup> *Department of Defense: Active Duty Military Personnel Strengths by Regional Area and by Country*, at <http://www.defenselink.mil/pubs/almanac/> (last visited Nov. 13, 2002). Of these forces, there are 374,849 Army personnel; 321,776 Navy personnel; 142,784 Marine Corps personnel; and 290,338 Air Force personnel. *Id.*

<sup>221</sup> *Id.* These forces include 68,883 Army personnel; 12,158 Navy personnel; 3485 Marine Corps personnel; and 33,623 Air Force personnel. *Id.*

<sup>222</sup> *See DOD, supra* note 219; *see also* Humi, *supra* note 137; *see also* THE INTERNATIONAL INSTITUTE FOR STRATEGIC STUDIES, *THE MILITARY BALANCE 1998/99* (1998) [hereinafter *MILITARY BALANCE*].

<sup>223</sup> *See DOD, supra* note 219; *see also* Humi, *supra* note 137.

<sup>224</sup> *See MILITARY BALANCE, supra* note 222.

<sup>225</sup> *See id.* at 69.

<sup>226</sup> *Id.*

artillery weapons.<sup>227</sup> The Royal Navy had fifteen submarines and thirty-eight principal surface combatants, while the Royal Air Force had 540 combat aircraft, including 162 helicopters.<sup>228</sup> The German military had a defense budget of \$25.8 billion in 1998, with 333,500 active personnel and 315,000 reserve forces.<sup>229</sup> That same year, the German Army had 2716 main battle tanks, 814 armored personnel carriers, and a total of 2040 artillery weapons.<sup>230</sup> The Navy had fourteen submarines and fifteen principal surface combatants, while the Air Force had 451 combat aircraft, including 102 helicopters.<sup>231</sup>

Although these numbers may seem substantial, they are only a fraction of the equipment and personnel of the U.S. military. In 1998, the U.S. defense had a budget of \$267.7 billion,<sup>232</sup> which was approximately ten times the size of the U.K. and German budgets. The U.S. had a force of 1,401,600 active personnel and 1,350,550 reserve personnel.<sup>233</sup> In terms of active personnel, the U.S. had seven times as many personnel as the U.K. and four times as many as Germany.<sup>234</sup> Regarding equipment, the Army had 7836 main battle tanks, equal to fifteen times that of the U.K. and three times that of Germany, 17,800 armored personnel carriers, and a total of 5680 artillery weapons.<sup>235</sup> The Navy had eighty-four submarines and 138 principal surface combatants, equal to four times as many submarines as both Germany and the U.K., and nine times as many principal surface combatants as Germany.<sup>236</sup> The Air Force had

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<sup>227</sup> *Id.* at 70. Explanatory Notes:

[a] Main Battle Tank (MBT): An armored, tracked, combat vehicle, weighing at least 16.5 metric tons unladen, that may be armed with a 360 degree traverse gun of at least 75mm caliber. Any new wheeled combat vehicles that meet the latter two criteria will be considered MBTs. An Armoured Personnel Carrier (APC): A lightly armoured combat vehicle, designed and equipped to transport an infantry squad, armed with integral/organic weapons of less than 20mm caliber. Artillery: A weapon with a caliber of 100mm and above, capable of engaged ground targets by delivering indirect fire. The definition covers guns, howitzers, guns/howitzers, multiple-rocket launchers and mortars.

*Id.* at 6-7.

<sup>228</sup> *Id.* at 71.

<sup>229</sup> *Id.* at 53.

<sup>230</sup> *Id.* at 54.

<sup>231</sup> *Id.* at 55.

<sup>232</sup> *Id.*

<sup>233</sup> *Id.* at 20.

<sup>234</sup> *Id.*

<sup>235</sup> *Id.*

<sup>236</sup> *Id.*

approximately 3000 combat aircraft, including 236 helicopters, equal to about six times that of the U.K. and Germany.<sup>237</sup> These numbers indicate the sheer size of the U.S. military forces in terms of personnel and equipment, a dramatic contrast to the significantly smaller military forces of EU countries.

The United States also has intelligence collection and strategic defense programs that remain unrivaled.<sup>238</sup> These include improved imagery satellites, navigational satellites, a nuclear detonation detection system, as well as a ballistic-missile early warning system, a space surveillance system, and a number of sophisticated radar systems.<sup>239</sup> The United States has such an advanced and superior military that the development of a 60,000 person EU deployable force will hardly rival its dominance.<sup>240</sup> The countries that must support and fund the EU force, such as the United Kingdom and Germany, have significantly weaker capabilities than the United States. Despite fears that the EU common defense will challenge the United States' role in Europe, the EU Member States lack the military capacity to challenge that role. Still, the EU force may help ease the burden on the United States, especially in terms of peacekeeping and humanitarian operations.<sup>241</sup>

The EU common defense could have serious negative implications, however, if it is not implemented properly.<sup>242</sup> If effective communication and cooperation with NATO is not established, the EU could cause NATO to weaken by "decoupling" itself from NATO.<sup>243</sup> There is a possibility that the EU Member States may form an informal "European Caucus" in which none of the countries speak for themselves, and instead have to report back to the EU to make any decisions.<sup>244</sup> Delayed communications could weaken effective decision-making in NATO.<sup>245</sup> The EU nations may also become more inward

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<sup>237</sup> *Id.*

<sup>238</sup> *See id.*

<sup>239</sup> *Id.* at 20-21.

<sup>240</sup> *See* Ahnfeldt-Mollerup, *supra* note 2, at 86-87.

<sup>241</sup> *See id.*

<sup>242</sup> *See European Common Foreign, Security and Defense Policies—Implications for the United States and the Atlantic Alliance: Hearing Before the House Committee on International Relations*, 106th Cong. (1999) (statement of Robert Hunter, Rand Corporation) [hereinafter *House Hearing*].

<sup>243</sup> *Id.* But see statement of Elmar Brok, Chairman, Committee on Foreign Affairs, Human Rights, Common Security and Defense Policy, The European Parliament, at 8. "Decoupling Europe from the U.S. would not be sensible at all because a strategic link which exists at present between both sides of the Atlantic Ocean is vital for peace and security in the world."

<sup>244</sup> *House Hearing*, *supra* note 242.

<sup>245</sup> *Id.*

looking, consequently threatening their commitments to NATO. If adequate channels of communication are not established, unneeded duplication may result as well, also taking away from NATO power and capabilities.<sup>246</sup>

The United States also fears that unless the EU nations increase their budgets, they may create a powerless institution and military force, thereby weakening NATO and creating even more dependence on the United States.<sup>247</sup> What the Europeans say they can do and what they are able to do may differ dramatically in reality.<sup>248</sup> This response may cause the U.S. to withdraw in certain areas where the EU proposes to take control, and then be unable to resolve the crisis at hand.<sup>249</sup> The result would be U.S. intervention into a crisis which has been heightened by the lack of sufficient EU military forces.

## V. CONCLUSION

An EU security and defense policy had been long desired by European nations in order to lessen their dependency on the United States. Their strong belief is that the Headline Goal under the Petersburg tasks established at Helsinki will work to increase their military capacities as well as that of their NATO partners.<sup>250</sup> However, there are a number of challenges that the EU faces before it can establish a competent military force. The crisis in Kosovo, which brought about the impetus to implement a common defense policy, indicates the lack of cooperation and communication between Member States, which is furthered by the language barrier the EU will face.<sup>251</sup> The United States is most concerned about two major problems of the common defense policy. First, cooperation and coordination with NATO is essential to foster and develop a working relationship with NATO.<sup>252</sup> The EU defense will only become effective and strengthen NATO if strong institutions are set up to

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<sup>246</sup> *Id.*

<sup>247</sup> *Id.* at 33-36 (statement of Peter Rodman, Director of National Security Studies at the Nixon Center).

<sup>248</sup> *Id.* at 79-87 (statement of Robert Hunter, Rand Corporation).

<sup>249</sup> *Id.*

<sup>250</sup> *Transatlantic Security*, *supra* note 158, at 20.

[o]ur vision is clear. Europe must prepare to do more—to pull its weight. And it must develop capabilities in ways that support action in NATO as well as under European Union leadership. There is an expectation on both sides of the Atlantic that we will make real progress . . . We cannot afford to fail.

*Id.*

<sup>251</sup> Kavanagh, *supra* note 49, at 361.

<sup>252</sup> Ahnfeldt-Møllerup, *supra* note 2.

foster communication between the two entities. Second, the EU nations must face the fact that their declining defense budgets must be increased to develop capabilities and equipment.<sup>253</sup> Without increased spending, the military will become ineffective and unable to assume any significant challenges.

Despite these problems, it is imperative that the United States give its support to the EU in developing its common defense.<sup>254</sup> By influencing the process and asserting its interests, the United States can help to ensure that the implications for the United States are only positive.<sup>255</sup> Withdrawing support would mean losing all insight and influence over how the common defense force develops. Maintaining communication with the EU will protect our interests in NATO and work to ensure that the common defense force is not weakening the Alliance. Isolationism will increase the likelihood of a "European caucus" forming and withdrawing support from NATO.

Although the U.S. should support the development of the common defense, it should also proceed with caution. Its support should not be unconditional, since the most important aspect of the common defense affecting the United States is its relationship with NATO. By conditioning U.S. support on the development of effective means of cooperation and coordination with NATO, the United States can protect its interests in Europe. Also, by encouraging the EU nations to increase their defense spending, the United States can help to ensure that the EU does not implement "hollow institutions." It is important that the United States keep a close watch as the common defense develops in the future, and detect if the EU is going down a different path than what the United States desires.

The EU and European nations are far from becoming militarily independent from the United States. The development of a common defense force is a small step which may decrease the burden of the U.S. in protecting Europe, but in no way threatens U.S. and influence in the region. The development of the common defense remains uncertain and there are many challenges only the EU can solve; but by supporting the EU, the United States will be helping to shape the future and fostering an even closer relationship with the EU while building a stronger NATO.

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<sup>253</sup> See *Q & A on Defense*, *supra* note 4.

<sup>254</sup> Ahnfeldt-Møllerup, *supra* note 2; see also *House Hearing*, *supra* note 242 (statement of Dr. Simon Serfaty, Professor of U.S. Foreign Policy, Old Dominion University).

<sup>255</sup> *House Hearing*, *supra* note 242 (statement of Dr. Simon Serfaty, Professor of U.S. Foreign Policy, Old Dominion University).