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€uros for ESDP: financing EU operations

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by Antonio Missiroli

€uros for ESDP: financing EU operations



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The financing of EU-led crisis management operations is a somewhat neglected yet nevertheless crucial factor affecting the external effectiveness and internal consistency of the Union's foreign and security policy. Until recently, CFSP's operational acquis has been minimal, its legal underpinning limited and tortuous, its budgetary fundament ludicrous, and its administrative practice mostly contradictory and often fraught with inter-institutional turf battles between Council, Commission and Parliament. With the launch of the first ESDP operations proper (EUPM in Bosnia and Herzegovina, Concordia in FYROM) in 2003, the forthcoming Operation Artemis in the Democratic Republic of Congo and the possible takeover of SFOR after 2004, it has become all the more important and urgent to devise more appropriate arrangements and incentives for common action. The European Convention and the ensuing Intergovernmental Conference represent additional opportunities to be seized.

In this respect, the main issues to be addressed regard: a) the speed and readiness of budgetary allocations, on the one hand, and their long-term sustainability, on the other; b) the coherence of the relevant provisions, in both institutional and functional terms, and their consistency with the peculiarities of the EU as an international actor; and c) the degree of transparency, accountability and internal fairness compatible with the imperatives of crisis management. The experience of other international organisations operating in this field (NATO, OSCE, UN) can also be taken into consideration with a view to selecting rules and modalities that may be helpful in tackling the problems highlighted here.

First and foremost, it is desirable that the current fragmentation of CFSP expenditure in separate EU budgetary lines be overcome. The appointment of an EU 'Minister for Foreign Affairs' (or whatever title is given to the new foreign policy suprema) is expected to help solve this problem and reduce some inter-institutional tensions and bottlenecks. For example, it is desirable for all expenditure related to civilian crisis management (with the possible exception of the salaries of seconded national personnel) to be borne by the EU budget in a more transparent fashion. To this end, the relevant procedures have to be made less tortuous and more flexible.

Secondly, expenditure for operations 'having military or defence implications' — in so far as it will remain distinct and separate from the rest — should be pooled in a more systematic, sustainable and explicit manner. Neither the current 'ad hocery' (as exemplified by EUPM and Concordia) nor the minimalist approach adopted by the Convention's Praesidium (with the proposal of a subsidiary 'start-up' fund) address the essential issues. In fact, if a subsidiary budget has to be set up, then it should be more ambitious and create a long-term basis for covering all the 'common costs' arising from military operations. Such an EU Operational Fund could usefully draw upon the precedent of the European Development Fund and adopt a distinct 'key' for national contributions. Such a 'key' should take into account e.g. the member states' ability to pay but also their ability to contribute in kind

through the actual involvement of personnel and equipment in EU operations. It should also be periodically adjustable and help overcome potential 'burden-sharing' disputes inside the Union by setting agreed criteria against which to measure and assess national contributions without resorting to the crude GDP scale. At the same time, the Fund's financial cycle should be the same as that of the EU budget. And, in perspective, the "common costs" thus covered should include also accommodation and transportation costs, especially if the Union develops common capabilities in the fields of strategic lift and logistics. By doing so, the EU would eventually have two main modalities for common operational expenditure at its disposal: the EU budget for all non-military aspects, and the Operational Fund. Both would guarantee a reliable financial perspective. If the separation between civilian and military aspects were ever to be bridged, their merger would not represent a problem.

Thirdly, the European Parliament could consider reimbursing those member states who participate in ESDP operations a fixed somme forfaitaire to cover partially the per diems of their seconded personnel (civilian as well as military). Such reimbursement could be made through the EU budget annually, ex post facto, with no political conditions attached. On the one hand, it would prove that the EU budget covers not only internal benefits (agriculture and structural funds) but also external commitments. On the other, it would add transparency to ESDP in that the Parliament could organise hearings with experts and officials as well as plenary debates. For their part, the member states would gain an additional incentive – however modest – to provide adequate human resources for external operations.

Finally, participating 'third' (and especially remaining and future candidate) countries could well be associated with all these arrangements, either case by case or more systematically. And none of the proposals outlined here necessarily require treaty change, although it would be preferable to insert some 'enabling' clauses in the Constitutional Treaty. All proposals, however, would require collaboration – rather than competition – between EU institutions.

Introduction

The financing of *operations* – as separate (but not entirely separable) from the financing of *capabilities* – represents an important, if sometimes neglected, factor affecting the effectiveness of ESDP and the overall coherence of CFSP.¹ It is all the more important now that, at last, the EU has taken over its first crisis management operations on the ground: the police mission EUPM in Bosnia and Herzegovina (since early January 2003), Operation Concordia in FYROM (since late March 2003), and soon also Operation Artemis in the Democratic Republic of Congo. However different in nature, location, scope, duration and size, they may well come to constitute the main points of reference – including in budgetary terms – for any future EU undertaking in this field. Yet their financial underpinning has mostly been improvised and is unlikely to provide a sustainable framework for more demanding operations – starting with the possible takeover of SFOR from NATO at some future date. It therefore seems both appropriate and timely to try and address the underlying issues in some depth and outline a more

comprehensive and coherent approach to ESDP operations.

The topic addressed in this paper is irksome, lying as it does at the juncture between administrative, legal/procedural, budgetary and more traditionally political issues. This may explain why there is virtually no specialised literature to rely on, nor any academic sub-community specifically interested in it. Nevertheless, the issues related to financing are crucial to setting the right incentives for common EU action.

The research work was launched in the spring of 2002, on the eve of the initial decisions on military ‘common costs’ adopted in Seville. A first note was published in the EU-ISS “Newsletter” n° 2 of May 2002 (Paying for EU Crisis Management), followed by other interventions in various media and on different occasions. The final push for this paper, however, came only with the onset of actual EU-led operations and the parallel debate in the Convention, to which the Institute gave its own contribution (CONV 417/02).

¹ For a first approach to this bundle of questions see A. Missiroli, ‘Ploughshares into Swords? Euros for European Defence’, *European Foreign Affairs Review*, VIII (2002), no. 1, pp. 5-33.

Legal, institutional and operational ‘*acquis*’

2.1 The ‘*acquis*’ proper

Since the inception of CFSP, inter-institutional disputes between Council and Parliament on questions related to financing have been quite frequent. Originally, Art. J.11 of the Maastricht Treaty (see Annexe I.a.) merely stated that ‘administrative’ expenditure would be charged to the EU budget,² while ‘operating’ expenditure would either follow the same principle or be charged to the member states ‘with a scale to be decided’. In either case, the decision had to be unanimous.

At that initial stage, the key problem already lay with the interpretation to put on ‘operating’ as distinct from ‘administrative’ expenditure (which covers *at least* the costs of all the EU personnel involved). It did not represent a major one, however, until the Union decided, in October 1993, to embark on its first significant, if small, ground operation, namely the two-year civilian administration of the contested southwestern Bosnian town of Mostar in former Yugoslavia (EUAM, 1994-96). Based on a Joint Action approved on 16 May 1994 and a Memorandum of Understanding signed on 5 July 1994 by the EU, WEU and the two main parties involved in the previous conflict, the operation had an initial budget of up to ECU 32 million for 1994, 17 million of which were charged to the member states according to the gross domestic product (GDP) scale of contribution. Later on, up to ECU 80 million were budgeted for 1995, and a further 32 million up to July 1996.

However, after having encountered major problems and delays with the initial allocations to be made by member states (which in turn led to the first disputes between Council and Parliament), it was soon unanimously decided that all the costs for 1995-96 would be charged to the EU budget. The Council eventually accepted that CFSP ‘operating’ expenditure be classified, as a general rule, as non-compulsory, thus indirectly allowing the European Parliament to be equally involved – failing adequate and prompt additional allocations by the member states – in the budgetary procedure. As a result, the overall expenditure for EUAM from the EU budget amounted to ECU 44 million, to which the costs of the WEU police force and the civilian personnel sent (and paid for) by the member States were to be added.³

Shortly afterwards, the Amsterdam Treaty widened the scope of possible CFSP operations to include the so-called ‘Petersberg tasks’ (Art. 17 TEU). This added an explicit military dimension to CFSP, although it was not yet ESDP proper. In the light of the experience gained from EUAM and of the new tasks, Art. J.11 was also modified and became Art. 28 TEU, which is still in force. The new provisions (see Annexe I.b.) maintained that ‘administrative’ expenditure would be charged to the EU budget under a Community instrument. Regarding ‘operating’ expenditure, the Treaty envisaged two main options: a) it could be charged to the EU budget as well (under the separate heading for CFSP); b) or not. The latter is expected always to be the

² Art. 268 TEC refers to revenue and expenditure of the *Community*, which is legally correct, but it is more commonly referred to as the budget of the *Union* – and so it will in this paper.

³ See F. Pagani, ‘L’administration de Mostar par l’Union Européenne’, *Annuaire français de droit international*, XLII (1996), pp. 234-54; F. Cameron, *The Foreign and Security Policy of the European Union* (Sheffield: Sheffield University Press, 1999), pp.50-5. The Western European Union was called on to provide assistance in ensuring public safety and freedom of movement in the city and training local police officers.

case with operations 'having military or defence implications': for these also the provisions laid down in Art. 23 on 'qualified' (commonly referred to as 'constructive') abstention apply, whereby abstaining member states are exempt from financial contributions. Yet no stringent indication is given on the scale of contributions for such military operations: the relevant expenditure, in fact, can be shared either according to the GDP 'key' or otherwise, if 'the Council acting unanimously decides' so.

Such a complicated system was clearly the result of an inter-institutional compromise between Council and Parliament. While keeping almost all options open for future missions,⁴ it did not cast much light on the exact interpretation of what 'operating' expenditure was expected to be. It is therefore not by accident that on 6 May 1999, in the wake of the entry into force of the Amsterdam Treaty, the main institutional actors tried to patch up a new arrangement. This was intended to substitute the 'gentlemen's agreement' of 1970 on budgetary discipline and procedures, whereby Parliament and Council refrained from modifying each other's budgets. It included a chapter on the financing of CFSP (see Annexes II.a.-b.). Parliament and Council, in particular, agreed on a special arrangement for CFSP expenditure in line with its peculiar character (need for a margin of manoeuvre, confidentiality, resort to national capabilities). Classified as 'non-compulsory' expenditure (as distinct from strictly Community expenditure), it is determined by a peculiar co-decision procedure between the two 'arms' of the budgetary authority within the framework of the annual budgetary procedure. As a consequence, each year Parliament and Council must find an agreement on the overall amount of CFSP expenditure and its breakdown into the specific budgetary articles. In the meantime, Council and Commission have agreed on particular rules for

the information and consultation of Parliament on CFSP matters which involve regular reports and financial forecasts.

The Inter-Institutional Agreement of May 1999 entered into force on 1 January 2000. It soon became clear, however, that the Council and all Council Presidencies were somewhat reluctant to deliver timely (quarterly) financial reports and forecasts to the European Parliament. Further tensions over the financing of CFSP eventually led to another compromise, reached in the budgetary conciliation of 25 November 2002, whereby the Council agreed to send to Parliament an immediate and comprehensive 'estimate of the costs envisaged' whenever 'a decision in the field of CFSP entailing expenditure' was adopted. This provision related to *all* decisions in the CFSP area including, for the first time, ESDP which had not only just been launched as an integral part of CFSP but was also close to becoming truly operational. Yet, at that stage, the main issue was not so much how expenditure related to actions 'having military or defence implications' as how differently foreign policy/external activities were to be financed.

2.2 *The practice — and the figures*

In addition to those CFSP operations included under Art. 28 TEU (Budget Subsection B-8), there are those ones which come under a Community instrument and within the first 'pillar', which are financed under the appropriate Community budgetary line for External Relations (Subsection B-7). They may include such actions as de-mining and DDR (demobilisation, disarmament and reintegration), civilian emergency assistance and humanitarian aid, human rights, institution building, election monitoring,

⁴ In theory, one can draw up the following options for the coverage of such 'operating' expenditure: 1) the EU budget (Community); 2) the EU budget (CFSP heading, for non-military operations); 3) an additional financial arrangement based on the GDP or any other 'key' (non-military operations), upon unanimous Council decision; 4) an additional financial arrangement based on the GDP or any other 'key' (operations with military implications), including 4-bis) a specific 'key' for military operations decided with 'qualified abstention' (15-minus). In the light of NATO's and WEU's experience, anyway, it was widely assumed that most 'operating' costs for operations with military implications would largely be borne by the participating states.

consolidation of democracy and the rule of law, all at first sight conceivable also as 'CFSP'. As a result, in purely budgetary terms, there can be as many as three main possible kinds of external relations operations (with further sub-options if the Council decides unanimously otherwise), and several grey areas.⁵ And there may arise problems of both consistency and transparency, as argued also by a Special Report of the European Court of Auditors issued on 30 November 2001 (see Annexe IV.).

Moreover, the actual practice of financing external actions has further increased the potential opaqueness of the whole system. A good case in point is the activity of the so-called CFSP 'special representatives' or envoys. In principle, they fall under budgetary line B-8 (as 'administrative' expenditure) and the exclusive supervision of the Council, following a Council decision of 30 March 2000. In practice, and due also to the relevant chapter's inadequate budget, they are often financed in a mixed and improvised way, combining: a) funds formally earmarked for first-pillar regional programmes (PHARE, TACIS, MEDA, CARDS, ECHO); b) the B-7 emergency reserve fund; and, last but not least, c) more or less explicit national secondments and contributions.⁶

Needless to say, this juggling with allocation lines – while it indirectly emphasises the 'inter-pillar' nature of the Union's foreign/external policies – does not facilitate scrutiny or accountability. It also makes the planning of comprehensive and durable operations very difficult and particularly dependent on national

interests. However, the procedures for resorting to the B-8 budgetary line proper are so tortuous and slow that they have ultimately contributed to the current state of affairs, leading to delays and under-spending. Not only is the negotiation process between Council and Parliament time-consuming and fraught with minor and major skirmishes, but even where agreement is reached, the ultimate administrative responsibility for the execution of the EU budget – in line with Art. 274 TEC – lies with the Commission. Therefore, inter-institutional turf battles have created a situation in which most member states (and the Council) dislike negotiating with Parliament over detailed annual allocations and being too reliant on the Commission for spending.⁷

As a consequence, the European Parliament has progressively reduced the B-8 line – down to a ludicrous €30 million in 2002 (especially if compared with B-7), raised again in 2003 to €47 million to finance EUPM (see Tables 1./2. below) – in order inter alia to draw both Council and Commission to the negotiating table and increase its leverage over CFSP. For their part, the member states eventually resort to first-pillar allocation lines because doing so is simpler and faster, though politically inconsistent and not entirely in line with the original Inter-Institutional Agreement. As a result, the Union has had to struggle hard, scratch around for leftovers from different budgetary chapters, and even devise bureaucratic stratagems to put together a mere €14 million to finance the launch of EUPM in 2002.⁸

⁵ See note.4. A quintessential grey area is responsibility for human rights and democracy, which is attributed to both CFSP (Art.11 TEU) and the first pillar in the context of development cooperation (Art.177 TEC). Actual examples include anti-personnel landmine actions, election monitoring (Nigeria), and the police element in Albania (MAPE) as taken over from WEU in 2001. See especially S.Duke, 'The Rhetoric-Resources Gap in EU Crisis Management', *EIPASCOPE*, no. 3, 2002, pp. 2-8.

⁶ The most notable cases in point regarding secondments were François Léotard and Alain Le Roy in FYROM (2001) and Klaus-Peter Klaiber in Afghanistan (2002). They also show how such a practice may engender a further imbalance among member states in that only the bigger and richer ones can afford economically to send their representatives to a foreign EU posting. See also Judy Dempsey, 'Budget cuts threaten safety of EU's envoys', *Financial Times*, 17 June 2002; P.B., 'La diplomatie des Quinze au bord de la faillite', *Le Figaro*, 18 juin 2002. The EU currently has six special representatives in place: Aldo Ajello (African Great Lakes, since 1996), Miguel Angel Moratinos (Middle East, since 1996), Erhard Busek (Stability Pact for South-Eastern Europe, since 2002), Lord Ashdown (Bosnia and Herzegovina, since 2002), Francesc Vendrell (Afghanistan, since 2002), and Alexis Brouhns (FYROM, since 2002).

⁷ See inter alia J.-M.Dumond and P.Setton, *La politique étrangère et de sécurité commune (PESC)* (Paris: La documentation Française, 1999), pp. 99-107.

⁸ By comparison, the EU's translation and interpretation services (including freelancers) cost between €600 and 700 million per year – less than 1 per cent of the overall EU budget, but still 15 to 20 times more than the CFSP line proper.

Table 1: EU Budget – External Action
 Figures by financial perspective heading
 Appropriations for commitments (EUR)

| Heading | Budget 2000 | Budget 2001 | Budget 2002 | Budget 2003 |
|--|---------------|---------------|---------------|---------------|
| <i>B.7 External Relations</i> ⁹ | 4 825 070 000 | 4 928 672 000 | 4 873 000 000 | 4 949 362 000 |

Source: European Parliament

⁹ The overall amount of the B.7 line is actually higher because it includes also pre-accession aid to candidate countries:

| | 2000 | 2001 | 2002 | 2003 |
|---|-----------|-----------|-----------|-----------|
| Pre-accession aid | 3 166 710 | 3 240 000 | 3 328 000 | 3 386 000 |
| Agriculture (B.7-0 1 chapter) | 529 000 | 540 000 | 555 000 | |
| Pre-accession structural instrument (B.7-0 2 chapter) | 1 058 000 | 1 080 000 | 1 109 000 | 1 129 000 |
| PHARE Pre-accession instrument (B.7-0 3 chapter) | 1 579 710 | 1 579 710 | 1 620 000 | 1 664 000 |

* This figure does not include the EU Solidarity Fund

Table 2: CFSP expenditure 1999-2003
Heading 4 – External Policies (in EUR)

| Line | HEADING 4 – EXTERNAL ACTIONS PART B COMMISSION | 1999 | | 2000 | | 2001 | | 2002 | | 2003 | |
|-----------|---|--------------------------|--------------------------|--------------------------|--------------------------|--------------------------|--------------------------|--------------------------|--------------------------|--------------------------|--------------------------|
| | | commit- ments | payments | commit- ments | payments | commit- ments | payments | commit- ments | payments | commit- ments | payments |
| | Title | | | | | | | | | | |
| B8 | COMMON FOREIGN AND SECURITY POLICY | | | | | | | | | | |
| B8-01 | Common Foreign and Security Policy | | | | | | | | | | |
| B8-010 | Conflict prevention and crisis management | 12 000 000 | 10 000 000 | 15 250 000 | 10 000 000 | 10 600 000 | 8 000 000 | 8 000 000 | 9 000 000 | 7 500 000 | 10 000 000 |
| B8-011 | Non-proliferation and disarmament | 5 750 000 | 3 000 000 | 2 250 000 | 1 200 000 | 9 000 000 | 12 000 000 | 8 000 000 | 10 000 000 | 8 500 000 | 11 500 000 |
| B8-012 | Conflict resolution, verification, support for the peace process and stabilisation | | | 12 500 000 | 9 500 000 | 10 000 000 | 7 500 000 | 8 000 000 | 10 300 000 | 27 000 000 | 26 000 000 |
| B8-013 | European Union special envoys | 5 000 000 | 3 300 000 | 6 500 000 | 4 750 000 | 900 000 | 3 000 000 | | | | |
| B8-014 | Emergency measures | 4 250 000 | 4 250 000 | 9 000 000 | 3 800 000 | 5 000 000 | 4 000 000 | 5 300 000 | 5 000 000 | 4 000 000 | 2 000 000 |
| B8-015 | Preparatory and follow-up measures | | | 1 500 000 | 750 000 | 500 000 | 500 000 | 700 000 | 700 000 | 500 000 | 500 000 |
| | Total B8 | 27 000 000 | 20 550 000 | 47 000 000 | 30 000 000 | 36 000 000 | 35 000 000 | 30 000 000 | 35 000 000 | 47 500 000 | 50 000 000 |
| | Total Heading 4 | 4 672 538 300 | 3 325 690 000 | 4 825 070 000 | 3 642 572 279 | 4 928 672 000 | 4 370 997 000 | 4 873 000 000 | 4 665 439 500 | 4 949 362 000 | 4 843 756 000 |
| | CFSP share | 0.58% | 0.62% | 0.97% | 0.82% | 0.73% | 0.80% | 0.62% | 0.75% | 0.96% | 1.03% |
| | Total B8 in 1999 prices | 27 000 000 | 20 550 000 | 46 217 852 | 29 501 426 | 34 669 483 | 33 705 701 | 28 134 619 | 32 823 783 | 43 755 028 | 46 057 480 |

Source: European Parliament

2.3 The 'common' costs

This said, in the administrative/budgetary domain a purely civilian operation like EUPM poses relatively fewer challenges than a military and/or 'mixed' one. On 28 November 2001 the European Commission released a Communication on civilian crisis management in which it rejected the idea of creating separate ad hoc funds in order to overcome procedural and budgetary constraints that might reduce the effectiveness of CFSP operations (see Annexe III.). Instead, the Commission proposed new budgetary mechanisms for crisis intervention, such as the creation of specific instruments for short-term actions – a case in point being the 'Rapid Reaction Mechanism' (RRM) created, after some negotiation in the COREPER, in late February 2001 – and the extensive use of the existing emergency reserve. This would provide the necessary flexibility but at the same time remain within the regular EU budget, thus respecting the principles of good governance and transparency. The European Parliament has not yet deliberated officially on the issue, but is likely to follow the same line of thinking.

The impending launch of EUPM in the spring of 2002, however, also accelerated the discussion inside the Council on the precise ways in which operations 'having military or defence implications' should be financed. EUPM, in fact, was seen as a first step towards an extended engagement of the Union in the Balkans, potentially encompassing the takeover (or rather 'devolution') of such NATO-led operations as

Amber Fox in FYROM and, perhaps, even SFOR in Bosnia and Herzegovina. As a consequence, and after some tough bargaining among member states, the General Affairs Council of 17 May 2002 reached a preliminary agreement on the funding of military operations that would translate into the Presidency Conclusions at the European Council held in Seville on 20 June 2002 (see Annexe V.). Accordingly, a distinction was introduced between 'common costs' – meant to include costs of headquarters (transport, administration, locally hired personnel, accommodation, and communications facilities) and costs for the back-up of the armed forces (infrastructure and medical care) – and 'individual' costs (personnel, arms, equipment) to be borne by each member state involved according to the principle already adopted by NATO whereby 'costs lie where they fall'. Moreover, it is up to the Council to decide on a case-by-case basis whether the costs for the transportation of the forces and their accommodation should be funded in common.

The agreement is to be revised, if necessary, by June 2004, but has constituted the interim administrative and political background for launching the first ESDP operations in 2002-03. Needless to say, the exact definition and range of the 'common costs' was the main bone of contention among the Fifteen: financial worries over the potentially spiralling costs to be borne by the EU budget often overlapped with political reservations over the strategic scope and the implications of ESDP.¹⁰

¹⁰ See. Judy Dempsey, 'EU split on funding for military operations', *Financial Times*, 3 June 2002; Judy Dempsey, 'Foreign ministers agree on military spending', *Financial Times*, 18 June 2002. For a general discussion see also Antonio Missiroli, 'Paying for EU Crisis Management', *EUISS Newsletter*, no.2, 2002, p. 4; and S.Duke, 'The Rhetoric-Resources Gap' op. cit. in note 3.

ESDP in action: problems and challenges

3.1 EUPM

ESDP only became truly ‘operational’ – after three years of institutional and organisational preparations – with the start of the European Union Police Mission (EUPM) in Bosnia and Herzegovina in January 2003. The operation was established by the General Affairs Council on 11 March 2002 (Joint Action 2002/210/CFSP) in order to take over from the UN-run International Police Task Force (IPTF), which had provided policing services in the country for the previous seven years. The aim of EUPM,

which is due to last up to three years, is to support the local authorities in training their police forces to the highest European and international standards through monitoring, mentoring and inspecting the management and operating of the police.¹¹ The EUPM involves around 900 staff, including 500 police officers, 50 international civilian experts and more than 300 local personnel. The majority thereof have been seconded by the 15 member states as well as 18 ‘third’ states participating in the mission (see Table 3 below). EUPM’s overall annual costs amount to EUR 38 million, of which member

Table 3: EUPM – participating personnel by country

| Member States | | | |
|----------------|------------|------------|-----------|
| Country | Total | Police | Civ-Secon |
| Austria | 5 | 5 | |
| Belgium | 5 | 5 | |
| Denmark | 13 | 12 | 1 |
| Finland | 22 | 16 | 6 |
| France | 75 | 75 | |
| Germany | 85 | 80 | 5 |
| Greece | 10 | 10 | |
| Ireland | 3 | 3 | |
| Italy | 42 | 42 | |
| Luxembourg | 2 | 2 | |
| Netherlands | 28 | 28 | |
| Portugal | 22 | 22 | |
| Spain | 26 | 24 | 2 |
| Sweden | 16 | 13 | 3 |
| United Kingdom | 64 | 58 | 6 |
| Total | 418 | 395 | 23 |

| Third States | | | |
|----------------|-----------|-----------|-----------|
| Country | Total | Police | Civ-Secon |
| Bulgaria | 3 | 3 | |
| Canada | 7 | 7 | |
| Cyprus | 4 | 4 | |
| Czech Republic | 6 | 6 | |
| Estonia | 2 | 2 | |
| Hungary | 5 | 5 | |
| Iceland | 3 | 2 | 1 |
| Latvia | 4 | 4 | |
| Lithuania | 2 | 2 | |
| Norway | 8 | 6 | 2 |
| Poland | 12 | 12 | |
| Romania | 6 | 6 | |
| Russia | 5 | 5 | |
| Slovakia | 4 | 4 | |
| Slovenia | 4 | 4 | |
| Switzerland | 4 | 4 | |
| Turkey | 6 | 6 | |
| Ukraine | 5 | 5 | |
| Total | 90 | 87 | 3 |

Source: EU Council

¹¹ For a detailed analysis and overview see Agnieszka Nowak, ‘L’Union en action: la mission de police en Bosnie’, *Occasional Paper* no. 42, (Paris: Institut d’Etudes de Sécurité de l’UE, janvier 2003).

States cover €18 million through secondments of staff while the EU budget (B-7 line) covers the EUR 20 million running costs [see Table 4 below]. The €4 million start-up costs (including equipment and the planning team) had already been funded – as mentioned above – from juggling different chapters in the 2002 EU budget. Further €1.7 million ‘start-up’ allocations were added through a 27 February 2003 amendment to the relevant Joint Action.

From an exclusively budgetary perspective, therefore, the launch and the implementation

of EUPM show how much easier it is for the Union to put in place civilian crisis management operations rather than ‘mixed’ or purely military ones. Following on the experience gained first with Mostar then with other CFSP actions since, EUPM also proves that member states end up - in spite of the intergovernmental rhetoric that often dominates the general discussion on the common foreign and security policy - resorting to the EU budget, albeit mostly by default and after considering other options: on this specific occasion, at least, they did it in a much more

Table 4: EUPM – Costs

| Start-up costs for 2002 (€) | Annual Running Costs for 2003-2005 (€) | |
|------------------------------------|--|-------------------|
| 14 000 000* | Per diems | 17 000 000 |
| (+ 1 700 000 for 2003) | Travel costs | 1 000 000 |
| | Operational running costs | 11 000 000 |
| | Local staff | 4 000 000 |
| | International civilian staff | 5 000 000 |
| (* financed through the EU budget) | Total | 38 000 000 |

Source: EU Council

transparent manner than before. Given also the limited amount of hardware necessary for such operations, the only area in which member states intervene directly is the per diems of their seconded personnel.

3.2 *Concordia*

The launch of Operation *Concordia* in FYROM – the Union’s first ever military operation proper – has been much more complicated. On the ground, the EU was active through a series of

Community programmes (especially CARDS) and other instruments, most importantly the Stabilisation and Association Agreement signed by FYROM in the spring of 2001. It was also represented by the Commission Delegation and, since 2001, a CFSP ‘special representative’. The implementation of the Ohrid Agreement signed by the two local communities in August 2001 and the ensuing UN Security Council Resolution 1371 included both the EU and NATO among the multilateral institutions expected to help enforce it. Ever since, the military element of the international peace-building

effort had been ensured by NATO, first with Operation *Amber Fox* then, once the tensions between Macedonian Slavs and Albanians started to abate, with the smaller *Allied Harmony*. The Union had already manifested its willingness to take over the mission from the Alliance in the summer of 2002. The plan was to run a EU-led follow-on operation with recourse to NATO planning capabilities. This is precisely the kind of format envisaged in the so-called ‘Berlin-plus’ framework. At that time, however, the tentative arrangement reached between the Union and the Alliance in December 2001 remained blocked inside NATO, mainly by Turkish demands that could not be entirely met by the EU.¹²

It was only towards the end of 2002 – after the surprising outcome of the 3 November elections in Turkey and before the Copenhagen European Council set to deliberate over the enlargement process – that Ankara eventually accepted the broad terms of the deal and made it possible to proceed with the ‘devolution of military crisis management in FYROM. Therefore, the EU-internal preparations for what would become *Concordia* went hand in hand with the technical refinement of the ‘Berlin-plus’ agree-

ment between the Union and the Alliance, in what was to become a *première for both*. The relatively small size of the operation made the exercise much easier and, after FYROM President Boris Trajkovski extended the invitation to the EU, eventually led to Council Joint Action 2003/92/ CFSP, which launched it on 27 January 2003.

Accordingly, *Concordia* would take over from NATO’s *Allied Harmony* – an operation that, like *Amber Fox*, was already conducted by overwhelmingly European forces – from 31 March 2003. Its initial duration is six months. The Operation Commander, in line with the ‘Berlin-plus’ agreement, is Deputy SACEUR, Admiral Rainer Feist, supported by NATO headquarters and guarded by a 40-strong Hungarian contingent. The Force Commander on the ground is Brigadier-General Pierre Maral, with France acting as ‘framework nation’ for the entire mission. Of the approximately 350 staff involved in the EU mission, 90 per cent come from 13 member states (exceptions are Ireland and, by virtue of its special exemption clause, Denmark) and the rest from as many as 14 ‘third’ countries, although Canada may withdraw its participation (see Table 5 below).

Table 5: *Concordia* – Participating personnel by country (357 overall)

| EU Members | Personnel |
|----------------|-----------|
| Austria | 11 |
| Belgium | 26 |
| Finland | 9 |
| France* | 145 |
| Germany | 26 |
| Greece | 21 |
| Italy | 27 |
| Luxembourg | 1 |
| Netherlands | 3 |
| Portugal | 6 |
| Spain | 16 |
| Sweden | 14 |
| United Kingdom | 3 |

* framework nation

Source: EU Council

| Third countries | Personnel |
|-----------------|-----------|
| Bulgaria | 2 |
| Canada | 1 |
| Czech Republic | 2 |
| Estonia | 1 |
| Hungar | 2 |
| Iceland | 1 |
| Latvia | 2 |
| Lithuania | 1 |
| Norway | 5 |
| Poland | 17 |
| Romania | 3 |
| Slovenia | 1 |
| Slovakia | 1 |
| Turkey | 10 |

¹² For a reconstruction of the ‘Berlin-plus’ saga see A. Missiroli, ‘EU-NATO Cooperation in Crisis Management: No Turkish Delight for ESDP’, *Security Dialogue*, XXXIII (2002), no.1, pp. 9-26.

As for the financing, the overall budget for six months amounts to €6.2 million (the initial allocation was €4.7 million). The participating member states bear, of course, all related ‘individual’ costs. They also cover the ‘common’ costs – this time including, upon unanimous decision, barracks and lodging for the forces as a whole – through an ad hoc so-called ‘financial

mechanism’ based on the GDP scale. As for the participating ‘third’ countries, another ad hoc scheme was created whereby they cover 15.5 per cent of the ‘common’ costs according to a ‘key’ that takes into account their GDP but adjusts it by setting a minimum (2 per cent) and a maximum (25 per cent) share (see Table 6 below).

Table 6: Concordia – Costs

| | |
|---------------------------------|---|
| EU participating states | cover their relevant ‘individual’ costs plus 84.5 per cent of the ‘common’ costs according to the GDP scale |
| participating ‘third’ countries | cover their relevant ‘individual’ costs plus 15.5 per cent of the ‘common’ costs according to an ad hoc key |
| ‘common’ costs (total) | EUR 6.2 million |

Source: EU Council

Participating third countries’ relative contribution to the total ‘common’ costs

| Third countries | Relative GDP share (per cent) | Contribution (EU) | Relative share (per cent) |
|-----------------|-------------------------------|-------------------|---------------------------|
| Bulgaria | 0.91 | 139 220 | 2 |
| Canada | 48.47 | 240 250 | 25 |
| Czech Republic | 4.04 | 52 001 | 5 |
| Estonia | 0.38 | 19 220 | 2 |
| Hungary | 3.72 | 47 944 | 5 |
| Iceland | 0.54 | 19 220 | 2 |
| Latvia | 0.54 | 19 220 | 2 |
| Lithuania | 0.84 | 19 220 | 2 |
| Norway | 11.85 | 152 592 | 16 |
| Poland | 12.50 | 160 982 | 17 |
| Romania | 2.84 | 36 603 | 4 |
| Slovakia | 1.47 | 19 220 | 2 |
| Slovenia | 1.35 | 19 220 | 2 |
| Turkey | 10.56 | 136 088 | 14 |
| Total | 100.00 | 961 000 | 100 |

3.3 Open questions

Both EUPM and *Concordia* were planned and launched with the explicit intention of a) giving, at last, a tangibly operational dimension to ESDP, b) testing the arrangements adopted so far, and c) creating precedents and learning lessons with a view to future and presumably larger missions. Their relatively small size, low intensity and (especially for *Concordia*) short duration, however, can hardly represent a yardstick for the possible takeover of NATO's SFOR after 2004 — an operation started as early as 1996 which still involves more than 12,000 soldiers on the ground in Bosnia. Its order of magnitude and foreseeable challenges may, in fact, also require a realistic and agreed framework from the financial viewpoint. Such a framework must be as sustainable, fair and transparent as possible, and meet the diverse demands made by the (present and future) member states.

In the light of experience gained so far, four main problems come to the fore. The first one regards *speed and readiness*: when the Union decides on a mission, it is paramount to be able to resort to stand-by financial and operational resources that can be mobilised and employed/deployed quickly. To this end, the Commission has set up the Rapid Reaction Mechanism. The Council can only resort to emergency reserves that are limited and subject to lengthy procedures. Hence the demand for a special 'start-up' fund that could encompass both cash (in the form of down-payments to be reimbursed later) and logistics-related matériel (as 'inherited' from previous operations and/or acquired off-the-shelf). Such a demand was raised in the Final Report of the Working Group on Defence of the Convention on the Future of Europe, chaired by EU Commissioner Michel Barnier, in December 2002, and has since been incorporated in the relevant draft articles submitted in April 2003 by the Convention's Praesidium (see Annexe I.c.).¹³

A second problem regards, instead, *long-term sustainability*. *Concordia* is too short, close and 'light' to constitute a significant precedent for ESDP operations: it is of a mainly symbolic value, which justifies the disproportionately large list of participating countries (up to 27 for a 350-strong contingent). EUPM has a longer life span and, for a civilian police operation, is not small — yet is tiny if compared to SFOR. Finally, Operation *Artemis* in the Democratic Republic of Congo raises substantial problems related to strategic lift, accommodation, surveillance and communications, and will probably involve a fairly different set of 'third' countries. More generally, sizeable peace-building operations often tend to have time horizons that are hard to predict: in order to be effective and credible, they should not be held hostage to inter-institutional turf battles in Brussels or lengthy parliamentary procedures in the member states. Hence the need for a more durable and transparent budgetary framework for EU-led crisis management operations, capable of overcoming the drawbacks of the current 'ad hocery' and as independent of national interests and contingencies as possible. It is a moot point whether this can be achieved through the current B-8 line or through other arrangements.

Related to this is the problem of *coherence*. EUPM is purely civilian, *Concordia* purely military. However, it is likely that future ESDP operations will be rather 'mixed'. This is also in line with the Union's ambition to become a fully-fledged international actor endowed with the whole gamut of policy tools required for crisis management. With the possible takeover of SFOR, in fact, the EU would *already* find itself in charge of a large 'mixed' operation in Bosnia and Herzegovina. From a functional as well as financial viewpoint, such a prospect raises the question of the necessary coherence between different budgetary sources and operating modalities (let alone competencies), all of which need to be addressed.

¹³ See 'Final Report of Working Group VIII - Defence', 16 December 2002, CONV 461/02; 'Draft articles on external action in the Constitutional Treaty', 23 April 2003, CONV 685/03.

Last but not least, a problem of *burden-sharing* among the member states may also arise. At present, in fact, the GDP-based ‘key’ of contributions applies both to the EU budget as such and, failing different arrangements agreed unanimously, to any additional operating expenditure to be borne by participating countries (including the ‘common costs’ for military missions). As a result, the bigger member states tend to carry the lion’s share of the ESDP burden (see Table 7 and Figure 1 below). On top of that, they also happen to be those who, more often than not, provide most of the personnel for operations, thus paying twice or thrice (B-7/B-8 lines, ‘common’ and ‘individual’ costs) for a given action. This extra burden, however, is not compensated by any special status in terms of decision-making. Nor is it a secret that Germany, in particular, has become very wary of

any additional expenditure to be covered through the GDP-based ‘key’. Much as the European construction is based on budgetary solidarity and translated into significant financial transfers, the imbalance is particularly striking here and may generate all the wrong incentives. Finally, such imbalance is bound to increase further with enlargement in that the acceding countries have both smaller GDPs and fewer capabilities. For the time being, they have a clear political incentive to participate in EU-led operations. Once in the Union, they will have a seat at the decision-making table but no obligation to join in costly missions they may not be able to afford to undertake. They may also become interested in resorting to the ‘qualified abstention’ enshrined in Art. 23 TEU – although, to date, no single EU member has ever done so.

Table 7: Official GDP-based shares of contribution to the EU budget (2003)

| EU MEMBERS | per cent share |
|----------------|----------------|
| Austria | 2.31 |
| Belgium | 2.95 |
| Denmark | 2.01 |
| Finland | 1.50 |
| France | 16.39 |
| Germany | 22.75 |
| Greece | 1.58 |
| Ireland | 1.19 |
| Italy | 13.83 |
| Luxembourg | 0.23 |
| Netherlands | 4.96 |
| Portugal | 1.36 |
| Spain | 7.46 |
| Sweden | 2.69 |
| United Kingdom | 18.78 |
| Total | 100.00 |

Source: European Commission

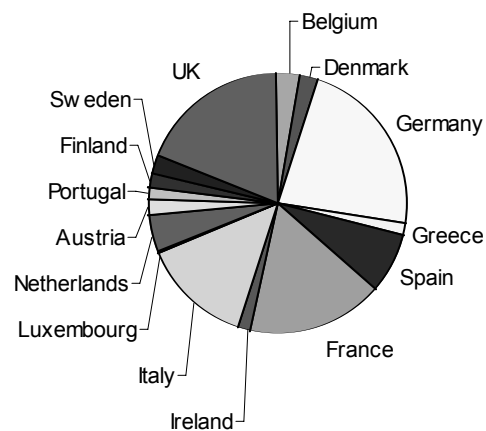


Figure 1: GDP-based contributions to the EU budget (2003)

All these potential problems may well require adjustments to the existing rules and procedures for financing future EU-led crisis management operations. The June 2004 review of the ‘common costs’ arrangement and, above all, the impending deliberations of the Convention and the ensuing Intergovernmental Conference (IGC) are excellent opportunities to do that properly.

Rules and practice of other organisations

4.1 NATO

How do the other multilateral organisations working in this area finance their activities and field operations? As already mentioned, NATO missions are covered according to the principle that ‘costs lie where they fall, i.e. participating ‘nations’ (as allied countries are called in NATO language) pay for the personnel and equipment they engage in a given operation.

This, however, is not the whole story. First of all, the Alliance has its own assets and capabilities – from its joint military headquarters and planning staff to its sizeable international personnel, up to the AWACS aircraft – which may all be involved in a given mission. NATO assets and structures are covered by a *civil* and a *military* budget, whose respective scales of contribution vary marginally according also to the degree of involvement (see Table 8 below).

Table 8: Shares of contributions to NATO’s budget

| NATO member country | Civil budget | Military Budget (Headquarters, Agencies and programmes) | | | Military Budget (NATO Airborne Early Warning & Control Force) | |
|-------------------------|--------------|---|------------|------------|---|------|
| | | “19” | “19” | “18” | “14” | “13” |
| Participating countries | “19” | “19” | “18” | “14” | “13” | |
| Belgium | 2.76 | 2.80 | 3.30 | 2.5869 | 3.2821 | |
| Canada | 5.35 | 5.33 | 5.95 | 7.1994 | 9.1343 | |
| Czech Republic | 0.90 | 0.90 | 1.08 | 0 | 0 | |
| Denmark | 1.47 | 1.68 | 1.94 | 1.5282 | 1.9389 | |
| France | 15.35 | 15.25 | 0 | 0 | 0 | |
| Germany | 15.54 | 15.54 | 18.20 | 21.4886 | 27.2638 | |
| Greece | 0.38 | 0.38 | 0.46 | 0.4728 | 0.5999 | |
| Hungary | 0.65 | 0.65 | 0.78 | 0 | 0 | |
| Iceland | 0.05 | 0.04 | 0.05 | 0 | 0 | |
| Italy | 5.75 | 5.91 | 7.08 | 5.5485 | 7.0397 | |
| Luxembourg | 0.08 | 0.08 | 0.10 | 0.0825 | 0.1045 | |
| Netherlands | 2.75 | 2.84 | 3.28 | 2.8625 | 3.6317 | |
| Norway | 1.11 | 1.16 | 1.36 | 1.1146 | 1.4142 | |
| Poland | 2.48 | 2.48 | 2.97 | 0 | 0 | |
| Portugal | 0.63 | 0.63 | 0.75 | 0.5323 | 0.6754 | |
| Spain | 3.50 | 3.5 | 4.19 | 2.77 | 3.10 | |
| Turkey | 1.59 | 1.59 | 1.90 | 1.2419 | 1.5757 | |
| United Kingdom | 17.25 | 16.09 | 19.12 | 20.8558 | 0 | |
| United States | 22.41 | 23.15 | 27.49 | 31.716 | 40.2398 | |
| Total | 100 | 100 | 100 | 100 | 100 | |

Source: NATO Handbook

The *civil* budget is funded primarily from the appropriations of ministries of foreign affairs, and covers: a) the operating costs of the International Staff at the NATO Headquarters in Brussels; b) the execution of approved civilian programmes and activities (amongst which activities with partner countries have grown significantly); and c) the construction, running and maintenance costs of facilities. The approved civil budget for 2002 amounted to approximately €125 million, of which personnel costs absorbed more than 60 per cent.

NATO's *military* budget, on the other hand, is largely financed from the appropriations of Defence ministries. It covers the operating and maintenance costs and – with the exception of what is charged to NATO's Security Investment Programme – the capital costs of the international military structure, including the Military Committee, the International Military Staff and associated Agencies, the Alliance's strategic commands and associated control, communication and intelligence systems, research and development agencies, procurement and logistics agencies, and NATO's AWACS (which is run by a dedicated agency that includes only 13/14 'nations', with Britain enjoying a special status). Currently, the military budget also supports the operating costs – with the exception, as already explained, of assigned military personnel – of the NATO command structure for peace-keeping activities in Bosnia and Herzegovina (SFOR) and Kosovo (KFOR): to the latter France, too, contributes significantly. The military budget approved for 2001 amounted to €746 million, including some €51 million for peace support operations.

This is to say that NATO does have long-standing arrangements to cover its 'common costs' while, at least until the late 1990s, the additional burden of seconded personnel for peace support operations was next to nothing. The controversial and much-debated issue of transatlantic 'burden-sharing' related rather to

the massive deployment of US American forces and equipment in Western Europe – inside and outside NATO – that was compensated through other financial transfers and/or deals linked to the US dollar. It is therefore important to stress that 1) 'operating' costs for non-Art. 5 peace support missions (covered through the 'costs lie where they fall' formula) have long been negligible in the overall NATO balance; b) they have often been softened by the use of assets and capabilities whose costs have already been shared by NATO 'nations'; c) when they have started to grow and take hold, namely with SFOR and KFOR, an ever-increasing share thereof has been taken over by the European allies, which currently put up more than two-thirds of NATO's military personnel engaged on the ground.

4.2 OSCE

By contrast, the lion's share of the OSCE's budget goes towards mission and field activities: roughly 84 per cent of the 2001 exercise (which amounted to EUR 209 million overall, down to 186 in 2003). Regular activities and institutions are funded by appropriations made by OSCE participating states according to a pre-set scale of contributions. A second scale of contributions was introduced in 1997 for 'large OSCE missions and projects', such as the operations in Bosnia and Herzegovina, Croatia, and Kosovo. This has a slightly different 'key' (see Table 9 below) which takes into account the willingness of certain countries to pay more than their normal due and is open (up to one-third) to voluntary contributions – the residual balance being billed later, if necessary.

In the case of OSCE, the relative lightness of the Secretariat and other OSCE offices contrasts with the size of the staff employed/deployed in field operations: the former encompasses some 300-odd people while the latter amount to approximately 1,000

Table 9: OSCE scale of contributions (2002)

A: Revised standard scale of contributions 2002 (11 April 2002)

B: Scale for large OSCE missions and projects (1 January 2002)

| COUNTRY | % A | % B | COUNTRY | % A | % B |
|--------------------|--------|--------|------------------------|--------|--------|
| USA | 9.00 | 13.57 | Croatia | 0.19 | 0.14 |
| France | 9.10 | 10.34 | Cyprus | 0.19 | 0.14 |
| Germany | 9.10 | 11.31 | Slovenia | 0.19 | 0.14 |
| Italy | 9.10 | 10.34 | Belarus | 0.58 | 0.07 |
| United Kingdom | 9.10 | 10.34 | Romania | 0.70 | 0.10 |
| Russian Federation | 9.00 | 3.72 | Bulgaria | 0.55 | 0.06 |
| Canada | 5.45 | 5.27 | Kazakhstan | 0.475 | 0.06 |
| Spain | 3.80 | 4.41 | Uzbekistan | 0.475 | 0.06 |
| Belgium | 3.55 | 4.07 | FRY | 0.19 | 0.05 |
| Netherlands | 3.80 | 4.07 | Albania | 0.19 | 0.02 |
| Sweden | 3.55 | 4.07 | Andorra | 0.125 | 0.02 |
| Switzerland | 2.30 | 2.65 | Armenia | 0.15 | 0.02 |
| Austria | 2.05 | 2.36 | Azerbaijan | 0.15 | 0.02 |
| Denmark | 2.05 | 2.36 | Bosnia and Herzegovina | 0.19 | 0.02 |
| Finland | 2.05 | 2.36 | Estonia | 0.19 | 0.02 |
| Norway | 2.05 | 2.36 | Georgia | 0.17 | 0.02 |
| Poland | 1.40 | 1.05 | Holy See | 0.125 | 0.02 |
| Turkey | 1.00 | 0.75 | Kyrgyzstan | 0.15 | 0.02 |
| Ireland | 0.55 | 0.63 | Latvia | 0.19 | 0.02 |
| Luxembourg | 0.55 | 0.30 | Liechtenstein | 0.125 | 0.02 |
| Greece | 0.70 | 0.58 | Lithuania | 0.19 | 0.02 |
| Hungary | 0.70 | 0.46 | Malta | 0.125 | 0.02 |
| Czech Republic | 0.67 | 0.50 | Moldova | 0.17 | |
| Portugal | 0.85 | 0.45 | Monaco | 0.125 | 0.02 |
| Slovakia | 0.33 | 0.18 | San Marino | 0.125 | 0.02 |
| Iceland | 0.19 | 0.12 | Tajikistan | 0.15 | 0.02 |
| Ukraine | 1.49 | 0.18 | FYROM | 0.19 | 0.02 |
| | | | Turkmenistan | 0.15 | 0.02 |

Source: author's elaboration on official OSCE data

international and 2,000 local staff – most of whom, however, consist of seconded personnel whose salaries are mostly covered by the seconding national administration. What matters here is that the cost structure of the organisation – as one that is mainly focused on field operations – has required appropriate arrangements.

4.3 UN

Finally, the UN organisation has a separate agency for the management of peacekeeping operations, namely DPKO, established ten years ago notably to meet the growing demand for such missions. Expenditure on UN peacekeeping activities was US\$190 million in 1980, only to rise to US\$3.5 billion (18 times greater) in 1994, when it reached an all-time peak for UN-led operations proper: suffice it to say here that, at that time, Bosnia's UNPROFOR alone involved more than 40,000 military and civilian personnel. Each such mission is financed separately, with its own fiscal term beginning when the mandate is approved. This means that UN member countries are asked to make payments at unexpected moments throughout their domestic budget cycle, causing them significant problems. They may also withhold peacekeeping contributions for a variety of political reasons, such as specific objections to particular missions. This said, contributions from member countries to the UN peacekeeping budget are assessed according to their ability to pay (based on GDP) as well as, for small states, their level of external debt. All this is translated into a graded

scale (see Table 10 below).

Table 10: Scale of contributions to UN peacekeeping costs

| Contributing Groups | Share of contribution % |
|---------------------|-------------------------|
| Group A | 63.15 |
| Group B | 34.78 |
| Group C | 2.02 |
| Group D | 0.05 |

Source: United Nations Organisation

This means that nearly all the costs of UN-led peacekeeping are met by the countries in Groups A (the five permanent members of the Security Council) and B (most EU and OECD members). The United States has the largest assessed contribution while, taken together, the EU-15 cover more than 40 per cent thereof. However, only 4,000 military personnel from the Union (roughly 12 per cent of the total) and less than one hundred from the United States are now engaged in UN-led 'blue-helmet' operations, which involve a total of some 60,000 personnel in 17 missions worldwide, with an annual budget of more than €2.5 billion. In turn, participating states are reimbursed for troop contribution at a flat rate of US\$1,000 per soldier per month, while technical and civilian specialists are reimbursed at a higher rate (a similar system is in place in the OSCE). As a result, the cost of missions varies depending on the size, structure, and type of deployment. Given the overwhelming presence in such missions of soldiers from developing countries, the

system de facto translates into a North-South financial transfer and engenders recurrent controversies over 'burden-sharing' among UN members.¹⁴

It is also worth recalling, however, that the UN foresees at least two distinct methods of financing peacekeeping operations. The first was used e.g. for the UN force in Cyprus, which is paid for by the government of Cyprus, the troop-contributing countries and voluntary donations. The second relates to so-called 'multinational forces' (MNFs) which, although authorised by the Security Council, are not actual UN-led forces: they are rather coalitions made up of and financed by willing states, such as the Australian-led force initially deployed to East Timor

in late 1999 and, in particular, the NATO-led forces still in place in Bosnia and Herzegovina and in Kosovo. The advantage of these types of operations is that they are not dependent on lengthy procedures for securing funds and can be deployed quickly. Their budgets are only marginally covered by the DPKO, which helps to explain the recent decline in its overall budget.

To sum up, the different methods and practices adopted by the other multilateral organisations engaged in similar operations prove that there is no magic formula to be automatically adopted for EU-led missions. At the same time, there are several lessons to be learnt and devices that could be used in order to make ESDP effective, sustainable, and internally fair.

¹⁴ See Jean-Marie Guéhenno, 'Opérations de maintien de la paix: la nouvelle donne', *Le Monde*, 18 décembre 2002. See also the detailed analysis made by H. Shimizu and T. Sandler, 'Peacekeeping and 'Burden-Sharing' 1994-2000', *Journal of Peace Research*, IXL (2002), no. 6, pp. 651-68.

Options and recommendations

5.1 Starting up

As regards the first problem mentioned above (3.3.), namely *speed and readiness*, the draft article proposed by the Convention's Praesidium suggests two things (see Annexe I.c.). On the one hand, that 'a Union budgetary heading .. be created for urgent financing of initiatives .., in particular preparatory activities for tasks' related to crisis management. It looks very much like a sort of ESDP 'Rapid Reaction Fund' comparable to the RRM established by the Commission, although it would presumably be part of the B-8 budgetary line.

On the other hand, the proposed new article suggests that 'preparatory activities . . . which are not charged to the Union budget . . . be financed by a start-up fund made up of member States' contributions' and put at the disposal of the EU 'Minister for Foreign Affairs' (or whatever title is given to the new foreign policy supremo). Upon the Minister's proposal, the Council is also called to adopt by qualified majority 'the procedures for setting up and financing the fund, in particular the amounts allocated to the fund and the procedures for reimbursement', along with those for the administration and financial control thereof. In other words, an *external* fund with a subsidiary budget should be created in order to meet all those urgent disbursement demands that cannot be met by the other new budgetary line mentioned above, namely those related to military equipment and logistics. In the draft article, however, no indication is given on the ways in which such special 'start-up' fund should be fed and according to what 'key' (the GDP scale is not even mentioned).

The problem is that getting timely down-payments from the member states (if this is the way in which the fund is to be constituted and fed) is structurally difficult, as the 2001 Special Report of the European Court of Auditors underlined and the UN's experience additionally proves. National procedures for mobilising funds to these ends vary significantly across the Union, but they normally require parliamentary approval and are therefore liable to domestic agendas and contingent budgetary constraints. Resorting to external loans - from the European Investment Bank, for example - is probably tortuous, especially with a view to eventual repayments, although it could be explored for initial procurement expenditure. As for the matériel proper, the problem could become more easily solvable if and when the Union develops *common capabilities*, e.g. for strategic lift and logistics. These are also the areas of operating expenditure that could (and arguably should) eventually fall under the 'common costs' heading.

This said, the general problem raised by the Convention Praesidium's draft article is the desirability - political as well as functional - of subsidiary budgets financed separately by the member states. This now happens in an ad hoc fashion and on terms that are negotiated, agreed and specified on a case-by-case basis, as EUPM and *Concordia* show. Making this a permanent modality, albeit dictated by the distinction between military and non-military expenditure, constitutes a step with wider implications for EU crisis management. There is, in other words, a potential for administrative fragmentation that should not be underestimated. For reasons

at once of coherence, effectiveness and transparency, therefore, it would be more desirable to simplify and unify ESDP expenditure. Where some differentiation could remain – or be introduced *ex novo* – is in the modalities through which Community (B-7), CFSP (B-8) and ‘common costs’-related expenditure would be planned and executed. It can be expected, in any case, that the new EU ‘Minister for Foreign Affairs’ ensures the necessary supervision, internal flexibility and, ultimately, overall consistency of the budgetary allocations and procedures, eliminating also (or at least drastically reducing) the current inter-institutional tensions and bottlenecks.

5.2 An operational fund

The separation between military and non-military expenditure, however, is likely to be here to stay (and perhaps to be developed further). Military and defence expenditure, in other words, looks set to remain under strict national control: such at least is the dominant attitude among the EU partners, present and future.

If that is indeed the case, then the creation of a subsidiary budget covered by the member states could usefully be extended to *all* military expenditure related to ESDP operations and not just be limited to the ‘start-up’ phase. In other words, a sizeable external fund could help address another problem mentioned above (3.3.), namely the financial *long-term sustainability* especially of peace-building operations. As the Balkan experience shows, the relevant costs are not negligible, ‘mission creep’ may well ensue, and national parliaments are often hard pressed to catch up with the required allocations. It might therefore be wise to envisage a financing scheme capable of providing the necessary time perspective and budgetary guarantees for the effective implementation of EU-led missions with military implications – if not

through the EU budget alone (the preferable option, certainly in the medium-long term), then through an additional one, perhaps better tailored to the current political priorities and demands of the member states, but at least reliable and reasonably transparent.

Interestingly enough, there is already a similarly conceived budgetary arrangement that is used for the Union’s external action. The European Development Fund (EDF) was established at the onset of the Communities and has accompanied EC/EU aid and trade policies throughout the decades, growing steadily in importance and size. It is not an invoice in the EU budget and, consequently, not under the control of the European Parliament or the Commission (although it is subject to the judicial control of the European Court of Auditors, as from Art. 248 TEC). Nor is it strictly GDP-based: it has an ad hoc ‘key’ that is marginally different in that it takes into account special ‘colonial’ responsibilities as well as – like the parallel OSCE budget for large missions – the willingness to pay more on the part of some member states. Such a ‘key’ is modifiable every five years through intergovernmental negotiations (see Table 11 and Figure 2 below), in accordance with the cycles of the Lomé/Cotonou financial arrangements for ACP countries.

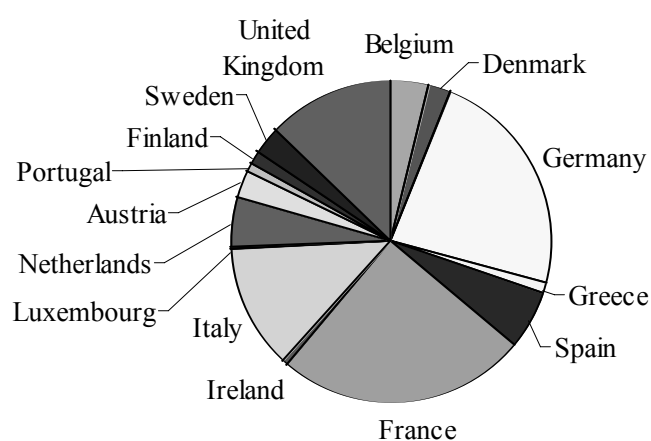
All EU members contribute to the EDF budget, which amounts to €13.8 billion for the period 2000-05. This is one of the reasons why pressure has mounted recently in Brussels to incorporate it in the overall aid budget of the Union, another being the trend towards streamlining, concentrating and pooling resources in policy fields where only acting together can have a significant impact.¹⁵ None the less, the EDF constitutes a precedent and a term of reference for arrangements that take into account the willingness of most member states to preserve an intergovernmental dimension to common expenditure while giving it a predictable financial perspective.

¹⁵ See e.g. M. Holland, *The European Union and the Third World* (Basingstoke: Palgrave, 2002). For a recent reappraisal see D. Cronin, ‘What EU can do in war against poverty’, *European Voice*, 30 April 2003.

Table 11: EDF scale of contributions (2000-2005)

| Member states | Contribution (EUR) | Percentage |
|----------------|-----------------------|---------------|
| Belgium | 540 960 000 | 3.92 |
| Denmark | 295 320 000 | 2.14 |
| Germany | 3223 680 000 | 23.36 |
| Greece | 172 500 000 | 1.25 |
| Spain | 805 920 000 | 5.84 |
| France | 3 353 400 000 | 24.3 |
| Ireland | 85 560 000 | 0.62 |
| Italy | 1730 520 000 | 12.54 |
| Luxembourg | 42 020 000 | 0.29 |
| Netherlands | 720 360 000 | 5.22 |
| Austria | 365 700 000 | 2.65 |
| Portugal | 133 860 000 | 0.97 |
| Finland | 204 240 000 | 1.48 |
| Sweden | 376 740 000 | 2.73 |
| United Kingdom | 1751 220 000 | 12.69 |
| Total | 13 800 000 000 | 100.00 |

Source: European Commission

**Figure 2:** Contributions to the EDF by country (2000-2005)

If ever established, in fact, a sort of EU ‘Operational Fund’ destined to bear the ‘common costs’ of EU-led military crisis management could well adopt an ad hoc ‘key’ of contributions. On the one hand, the Fund should have the same financial cycle as the EU budget: this would allow the cross-checking of similar invoices and various transfers while facilitating an eventual ‘merger’ if the current separation between military and non-military expenditure is ever to be overcome. On the other hand, a such ‘key’ could be marginally reviewed and adjusted more frequently than the EDF one – e.g. annually or biannually – and take into account not only each member’s overall GDP but a more complex ‘basket’ of indicators. These could be a) the *ability to pay*, and b) the *ability to contribute in kind*.

The former could move from the overall size of the each country’s economy but consider also the per capita GDP: to give an example, Poland’s GDP is roughly 50 per cent bigger than Greece’s or Portugal’s – and eight times bigger than Slovenia’s – but only half as big as theirs in per capita terms. A similarly useful yardstick to assess the ability to pay – and one more tailored to the Union than, say, the level of external debt taken into consideration by the UN – would be a country’s status as net recipient or contributor to the EU budget. The ability to contribute in kind to military crisis management could be measured against each country’s actual participation to field missions in terms of forces and especially equipment: for instance, the more nationally-owned assets and capabilities are put to common EU use, the less a country pays into the Fund. Accordingly, a hypothetical budgetary ‘key’ for the Fund could come to foresee – like the UN – only three or four main categories of contributors and review them regularly on the basis of the agreed criteria. What is worth stressing is that the main alternative to this – if some fairness and solidarity are to be preserved and internal controversies over ‘burden-

sharing’ and ‘free-riding’ prevented – consists in granting those member states who contribute most a special status inside ESDP – not unlike in the UN.

It is also worth underlining that, by mobilising additional financial resources for the common ‘Operational Fund’, the member states’ finance ministers would hardly disburse more public money than by making case-by-case payments - pooling normally generates savings - while national members of parliament could well preserve some control over such allocations.

In principle, all member states should contribute to the ‘Operational Fund’. If not, it would become a different kind of fund, namely one linked to some kind of ‘enhanced’ or ‘structured’ cooperation among a group of EU partners only, which would raise a completely different set of questions. At any rate, adhesion and contribution to the Fund would be a precondition for deciding on its use. Moreover, it would help ‘measure’ in a relatively fair and transparent manner the respective contributions of member states to common military operations. In turn, this would have repercussions on the way in which the relevant decisions are taken (not unlike what still happens in the IMF with the Special Drawing Rights, or what formerly happened in the European Coal and Steel Community with the votes taken ex Art. 28 of that Treaty on the basis of the adherents’ assessed *industrial capacities*), but without formally affecting the equality of EU member states. For their part, participating ‘third’ countries could either contribute to the Fund on a case-by-case basis (as for *Concordia*) or, if they aim at a sort of permanent ‘association’ to ESDP, negotiate a more durable arrangement. The latter could well be the case with remaining and future candidate countries.

Finally, the establishment of such a special Fund would not necessarily require treaty change. Of course, for reasons of transparency,

it would be preferable if an eventual Constitutional Treaty included a general ‘enabling’ clause similar to that proposed by the Convention’s Praesidium for the ‘start-up’ fund. In a way, simply deleting from the draft article’s relevant paragraph (see Annexe I.c.) the words ‘preliminary’ and ‘start-up’ would solve the problem without necessarily predetermining future decisions. If necessary, ‘shall’ could also be replaced by ‘may’, thus adding more flexibility. But it is not essential to do that: after all, the EDF has never been incorporated into either the TEC or the TEU and, in any case, the Council can already decide – albeit only by ‘acting unanimously’ – to adopt new modalities for financing operations ‘with military or defence implications’.

By doing so, the Union would limit the modalities for financing ESDP operations to *only two*: through the EU budget (for *all* the civilian aspects of any mission) and through a subsidiary ‘Operational Fund’ (for all the ‘common costs’ related to the military aspects). This would ensure: 1) a certain degree of coherence and simplification; 2) speed coupled with sustainability; and 3) a potentially higher degree of fairness and solidarity in sharing the burden.

5.3 *Paying back*

Such an arrangement would leave out of the scheme only the per diems of the national personnel seconded to EU-led operations. Even for these, however, a solution more in line with the essence and ‘philosophy’ of the Union is conceivable. This could for instance draw on the rules adopted by the UN and the OSCE. Merely reimbursing the per diems directly would be extremely complicated and also unfair, in that the member states have quite different rates, with significant variations in the ratio between basic pay and additional allowances for foreign

secondments. Instead, a single flat monthly payment (*somme forfaitaire*) per person could be set in advance and paid back to the member states at the end of each fiscal year on the basis of their actual involvement. Different rates could be established for civilian and military staff, but the general mechanism would remain the same. In principle, however, such an arrangement should *not* include ‘third’ countries unless, as hinted above, specific ‘association’ agreements provide for that.

Arguably, such *ex post facto* reimbursement should be made from the EU budget and decided upon by the European Parliament, in consultation with the relevant executive bodies. No political conditions should be attached to that: in other words, the reimbursement should not be aimed to strengthen the Parliament’s hand vis-à-vis the Council, but should be an autonomous act with no hidden agenda. By so doing, in fact, the Parliament could show that the Union’s budget is about not only agriculture and structural funds (i.e. internal benefits) but also external commitments and peace support, while the resulting financial impact would be quite modest. The European Parliament could also – yet again, without establishing any direct political correlation with the reimbursement – exercise more effective scrutiny over EU-led operations and organise hearings and briefings with experts and officials as well as plenary debates, thus adding transparency to ESDP. Of course, this would not entirely solve the problem of democratic accountability; but it must also be said that parliamentary procedures on these matters often leave something to be desired even inside member states. Finally, such an arrangement would not directly affect the prerogatives of the EU executive or those of the member states. Nor would it necessarily require a treaty change – although, once again, some ‘enabling’ clause inserted in the future Constitutional Treaty would be preferable.

Last but not least, the member states' finance ministers could show that participation in EU-led operations not only entails extra payments but also includes limited yet tangible financial returns. In addition, such an arrangement could help prevent the serious risk of some member states not supporting a possible operation for lack of adequate funds and/or personnel. The certainty of the reimbursement would in fact facilitate a positive decision, benefit both over-committed and poorer member states, and set additional incentives to common training and common action. Finally, whilst this would not

necessarily imply higher operating expenditure (all depending on the size and duration of actual missions), it would set a reliable financial framework for the relevant political decisions.

In conclusion, however, it must be stressed that all the possible options outlined above require a much higher degree of inter-institutional collaboration than that which the Union has seen to date. Hopefully the Convention and the IGC – along with the imperative of operational effectiveness engendered by direct engagement in the Balkans and elsewhere – will help create the right conditions for that.

Annexes

ANNEX I - TEU Provisions

I.A. MAASTRICHT TREATY

Article J.11

1. The provisions referred to in Articles 137, 138, 139 to 142, 146, 147, 150 to 153, 157 to 163 and 217 of the Treaty establishing the European Community shall apply to the provisions relating to the areas referred to in this Title.
2. Administrative expenditure which the provisions relating to the areas referred to in this Title entailed for the institutions shall be charged to the budget of the European Communities.

The Council may also:

- ▮ either decide unanimously that operational expenditure to which the implementation of those provisions gives rise is to be charged to the budget of the European Communities; in that event, the budgetary procedure laid down in the Treaty establishing the European Community shall be applicable;
- ▮ or determine that such expenditure shall be charged to the Member States, where appropriate in accordance with a scale to be decided.

I.B. AMSTERDAM TREATY

[not modified at Nice, still in force]

Article 28

1. Articles 189, 190, 196 to 199, 203, 204, 206 to 209, 213 to 219, 255 and 290 of the Treaty establishing the European Community shall apply to the provisions relating to the areas referred to in this Title.
2. Administrative expenditure which the provisions relating to the areas referred to in this Title entail for the institutions shall be charged to the budget of the European Communities.
3. Operational expenditure to which the implementation of those provisions gives rise shall also be charged to the budget of the European Communities, except for such expenditure arising from operations having military or defence implications and cases where the Council acting unanimously decides otherwise.

In cases where expenditure is not charged to the budget of the European Communities it shall be charged to the Member States in accordance with the gross national product scale, unless the Council acting unanimously decides otherwise. As for expenditure arising from operations having military or defence implications, Member States whose representatives in the Council have made a formal

declaration under Article 23(1), second subparagraph, shall not be obliged to contribute to the financing thereof.

4. The budgetary procedure laid down in the Treaty establishing the European Community shall apply to the expenditure charged to the budget of the European Communities.

I.C. DRAFT TREATY PROVISIONS AS SUBMITTED TO THE EUROPEAN CONVENTION BY THE PRESIDIUUM ON 23 APRIL 2003 (CONV 685/03)

C. Financial provisions

Article 22

Administrative expenditure which the provisions relating to the areas referred to in this Title entail for the institutions shall be charged to the Union budget.

Operating expenditure to which the implementation of those provisions gives rise shall also be charged to the Union budget, except for such expenditure arising from operations having military or defence implications and cases where the Council acting unanimously decides otherwise.

In cases where expenditure is not charged to the Union's budget it shall be charged to the Member States in accordance with the gross national product scale, unless the Council acting unanimously decides otherwise. As for expenditure arising from operations having military or defence implications, Member States whose representatives in the Council have made a formal declaration under Article 9(1), second subparagraph, shall not be obliged to contribute to the financing thereof.

A Union budgetary heading shall be created for urgent financing of initiatives in the framework of the common foreign and security policy, in particular preparatory activities for tasks as referred to in by Article 30(1) of Part One of the Constitution. Specific procedures shall be put in place to guarantee rapid access to appropriations entered under this heading and their effective use within the deadlines imposed by the situations concerned.

Preparatory activities for tasks as referred to in Article 30(1) of Part One of the Constitution which are not charged to the Union budget shall be financed by a start-up fund made up of Member States' contributions.

The Council shall adopt by a qualified majority on a proposal from the Minister for Foreign Affairs:

the procedures for setting up and financing the fund, in particular the amounts allocated to the fund and the procedures for reimbursement;
the procedures for administering the fund;
the financial control procedures.

When it is planning a task as referred to in Article 30(1) of Part One of the Constitution which cannot be charged to the Union's budget, the Council shall authorise the Minister for Foreign Affairs to use the fund. The Minister for Foreign Affairs shall report to the Council on the implementation of the remit.

[This same text is now inserted in the Draft Constitutional Treaty released by the Presidium as art. 210 of Section III, CV 727/03, 27 May 2003]

ANNEX II - Interinstitutional agreement of 6 May 1999

II. A. INTERINSTITUTIONAL AGREEMENT OF 6 MAY 1999 BETWEEN THE EUROPEAN PARLIAMENT, THE COUNCIL AND THE COMMISSION ON BUDGETARY DISCIPLINE AND IMPROVEMENT OF THE BUDGETARY PROCEDURE [EXTRACT]

(Official Journal C 172, 18/06/1999 P. 0001 - 0022)

H. Financing of the common foreign and security policy (CFSP)

39. For the CFSP expenditure charged to the general budget of the European Communities in accordance with Article 28 of the Treaty on European Union, the institutions will endeavour, in the conciliation procedure provided for in Annex III and on the basis of the preliminary draft budget established by the Commission, to secure each year agreement on the amount of the operational expenditure to be charged to the Community budget and on the distribution of this amount between the articles of the CFSP budget chapter suggested in the fourth subparagraph of this paragraph. In the absence of agreement, it is understood that the European Parliament and the Council will enter in the budget the amount contained in the previous budget or the amount proposed in the preliminary draft budget, whichever is the lower.

The total amount of operational CFSP expenditure will be entered entirely in one budget chapter (CFSP) and distributed between the articles of this chapter as suggested in the fourth subparagraph of this paragraph. This amount is to cover the real predictable needs and a reasonable margin for unforeseen actions. No funds will be entered in a reserve. Each article covers common strategies or joint actions already adopted, measures which are foreseen but not yet adopted and all future - i.e. unforeseen - action to be adopted by the Council during the financial year concerned.

Since, under the Financial Regulation, the Commission has the authority, within the framework of a CFSP action, to transfer appropriations autonomously between articles within one budget chapter, i.e. the CFSP allocation, the flexibility deemed necessary for speedy implementation of CFSP actions will accordingly be assured. In the event of the amount of the CFSP budget during the financial year being insufficient to cover the necessary expenses, the European Parliament and the Council will seek a solution as a matter of urgency, on a proposal from the Commission.

Within the CFSP budget chapter, the articles into which the CFSP actions are to be entered could read along the following lines:

- ▮ observation and organization of elections/participation in democratic transition processes,
- ▮ Union envoys,
- ▮ prevention of conflicts/peace and security processes,
- ▮ financial assistance to disarmament processes,
- ▮ contributions to international conferences,
- ▮ urgent actions.

The European Parliament, the Council and the Commission agree that the amount for actions entered under the article mentioned in the sixth indent may not exceed 20 % of the overall amount of the CFSP budget chapter.

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

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

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

II.B. DECLARATION OF THE EUROPEAN PARLIAMENT, COUNCIL AND COMMISSION¹ ON THE FINANCING OF THE COMMON FOREIGN AND SECURITY POLICY IN ACCORDANCE WITH THE INTERINSTITUTIONAL AGREEMENT OF 6 MAY 1999

The European Parliament, the Council and the Commission agree on the need to ensure the necessary funding for common foreign and security policy within the framework of the financial perspectives and in respect of the provisions of the Treaty, taking into account that the development of the common foreign and security policy is a priority for the European Union.

The European Parliament, the Council and the Commission therefore agree that the budget of the common foreign and security policy should be dealt with in a transparent, efficient and operational manner.

While recalling points 39 and 40 of the Interinstitutional Agreement of 6 May 1999 between the European Parliament, the Council and the Commission on budgetary discipline and improvement of the budgetary procedure (hereafter: "the Interinstitutional Agreement"), which remains fully applicable, the European Parliament and the Council agree the following:

- ▀ Each year, the Council establishes a document setting out the main aspects and basic choices of the common foreign and security policy, including financial implications for the General Budget of the European Union. The Council Presidency will consult the Parliament on this document as provided for in point 40 of the Interinstitutional Agreement. The document will leave enough flexibility to react to newly emerging crises. It will be transmitted to Parliament before 15th June for the year in question.
- ▀ The Commission will continue to play its role in devising CFSP Joint Actions in accordance with the provisions of the Treaty, in particular as regards the financial and operational framework, including fact-finding and evaluation missions.
- ▀ Whenever Council adopts a decision in the field of the common foreign and security policy entailing expenditure, the Council will immediately and no later than five working days following the final decision send the European Parliament the information indicated in point 40, paragraph 2 of the Interinstitutional Agreement.

¹ Texts adopted, 19.12.2002

- ▶ The Presidency of the Council will in the context of the regular political dialogue with the President of the European Parliament and chairpersons of the European Parliament committee responsible for foreign affairs and security policy as well as the budget committee, whenever possible, give early warning on CFSP Joint Actions which might have important financial implications.
- ▶ In the event that Council foresees the adoption of a Joint Action that will require during the current financial year increased amounts on the common foreign and security policy budgetary appropriations, the Council will without delay enter into dialogue on that Joint Action with the Parliament with the aim of seeking a solution as a matter of urgency, on a proposal from the Commission, in accordance with the provisions of the Interinstitutional Agreement.
- ▶ Information and consultation of the European Parliament as provided for in point 40 of the Interinstitutional Agreement will respect the necessary conditions of confidentiality, in particular the Interinstitutional Agreement between the European Parliament and the Council of 21 November 2002 concerning access by the European Parliament to sensitive information of the Council in the field of security and defence policy.

Agreed in budgetary conciliation of 25 November 2002

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ANNEX III - Communication from the Commission to the Council and the European Parliament (28 November 2001)

FINANCING OF CIVILIAN CRISIS MANAGEMENT OPERATIONS [EXTRACT]

/ COM/2001/0647 final */*

1. Summary

The EU needs more effective and reliable procedures for the rapid financing of civilian crisis interventions, including CFSP actions.

Financing of such actions through the regular budget has been too cumbersome in the past. Yet the EC budget still offers the best basis upon which to build, not least because it is best context in which to ensure principles of good governance and transparency, and in which to ensure coherence of EU action (both CFSP and Community). If the regular budget is to be used, however, it will be necessary to overcome both resource constraints and procedural obstacles.

- ▶ As concerns resources: Recourse could be made to a new flexibility instrument for civil crisis interventions, including CFSP action as well as to the current emergency reserve within the budget. The creation of a new flexibility instrument would permit the release of additional credits for external action in unforeseen and exceptional crisis situations, while remaining within the overall financial perspectives agreed at Berlin. Similar recourse to the emergency reserve in cases of particular urgency, while respecting the priority given to humanitarian action, would provide further flexibility and resources in EU crisis management.
- ▶ As concerns procedures: current financing mechanisms within the budget need to be reviewed and improved. This is true equally for CFSP financing procedures and for regular Community instruments. For the management of the new flexibility instrument a transparent and fast procedure has to be sought. Continued use of the EC budget for most crisis management actions would not preclude the option of Member State contributions in exceptional cases, in accordance with Article 28 (3) of the EU Treaty.

2. Introduction

Since its inception the European Community has been involved through its external policy in conflict prevention and crisis management. The Treaties of Maastricht and Amsterdam introduced new instruments for political/diplomatic and security/military action under the CFSP/ESDP. In parallel with these developments, international experience with crisis management over the last decade has shown a change in the nature and scale of crises to which the European Union must respond. The combination of these two developments poses a double challenge to the Commission:

- ▶ of improving Community instruments and procedures to make them more flexible and adapted to the needs of crisis response; and
- ▶ of ensuring co-ordinated and cohesive development between Community instruments and the new instruments available under CFSP/ESDP.

The existing pillar structure of the European Union may not be the optimal architecture for a fully integrated approach, and the next Intergovernmental Conference may have to address this issue. But that is for the future. Our task now is to develop effective and integrated mechanisms on the basis of the Treaty we have. There are many examples in the past few years of coherent and coordinated interaction of European Union instruments within the existing structures, most recently in FYROM.

The Commission is playing its full part in the European Union's efforts to develop an effective overall crisis management and conflict prevention capability. In a crisis, the Union must be able to act quickly. There must be no confusion over the distribution of tasks.

With a view to improving its capacity to respond fast and effectively to crises the Commission has developed tools in order to mobilize Community instruments more quickly. The recently adopted Rapid Reaction Mechanism (RRM)¹ is an example. It allows fast access to necessary budgetary financial means by operating through a separate budget line in the regular budget. The Commission is also seeking to ensure that programmes under the Community instruments are designed in such a way as to permit flexible and rapid response in case of crises.²

Military aspects of crisis operations cannot be covered from the regular budget of the European Communities. It is for this reason that new structures³

have been developed within the Council Secretariat and that ad-hoc arrangements are being put in place for the funding of operations with military implications.

Article 28 of the EU Treaty foresees that, as a general rule, expenditure generated by CFSP action in situations of crisis should be charged to the regular budget. This helps to ensure the consistency and continuity of the European Union's external activities. The Treaty, however, also leaves open the possibility of a derogation from this rule.

3. Civilian crisis management under CFSP and Community instruments

In two recent reports, one on CFSP and one on the European Agency for Reconstruction in Kosovo, the European Court of Auditors comes to very different assessments: While the Agency is praised for its diligence and effectiveness, the management of CFSP is seen as being cumbersome and often much too slow. In the case of the CFSP both, an insufficient involvement of the Commission in the preparatory phase of actions as well as coordination problems and other difficulties within the Commission are cited. Among other recommendations, including the request for a more transparent management of CFSP, the Court of Auditors calls for a more timely decision-making in Council where existing actions are to be prolonged and for using the potential for faster management by the Commission.

The Community has considerable experience in conflict prevention, crisis management and crisis resolution. For example, in South Africa, the Community gave active support to front-line states and NGOs during the apartheid era. Since 1994 it has intervened to support the transition, and helped with electoral and institution-building efforts. In Guatemala, the Community has helped to implement the peace agreement and contributed to institution building in key sectors such as rule of law

¹ Regulation (EC) No 381/2001 creating a rapid-reaction mechanism, *OJ L 57*, 27.2.2001, p. 5.

² As advocated in the Commission's Communication on Conflict Prevention COM(2001) 211 final.

³ See Presidency Conclusions of the Nice European Council Meeting, 7,8 and 9 December 2000, Annex VI.

and police. In East Timor the Commission is supporting the UNTAET administration. And in the Balkans the Community is leading one of the UN pillars in Kosovo, engaged in reconstruction efforts as well as support to local administration and civil society.

The European Council in Feira identified four priority areas for civilian crisis management intervention: *police, rule of law, civil protection* and *civilian administration*. These priority areas fall within a much broader set of civilian crisis management interventions, for which the Community has clear competence, including, for example, trade, economic incentives, humanitarian interventions, rehabilitation and institution building. For many actions which might be contemplated within the four priority areas identified at Feira the Community has competence as well as valuable expertise. It is the aim and content of an envisaged operation that determines the related legal basis⁴ and consequently the source of financing under the budget – whether Community or CFSP. The extent of Community competence for European Union civilian crisis management is not always clearly understood. Annex I clarifies some of the boundaries between First and Second Pillar.

In budgetary terms, there are three possible categories of crisis management operations:

- a) operations under a Community instrument,⁵ which are financed under the appropriate Community budget line;
- b) CFSP operations not having military or defense implications,⁶ which are financed under the CFSP budget line;
- c) ESDP operations having military or defense implications, which fall outside the Community budget.

As regards a) – operations under Community instruments – it is worth noting that these may include actions which might at first sight be thought of as ‘CFSP’. For example, demining, civilian emergency assistance, Civil Protection assistance intervention, human rights, institution building, election monitoring, consolidation of democracy and the rule of law, food aid, securing the livelihoods and safety of refugees, rehabilitation, reconstruction, infrastructure development as well as economic aid fall under Community instruments.

As regards b) – CFSP operations without military or defense implications – Community budgetary law applies in full when such operations are charged to the budget (which is the general rule under Article 28 – though there is also an exceptional procedure to charge expenditure to Member States). The Council decides a Joint Action and the budgetary resources to put into it, and the Commission commits, contracts and disburses the budget allocated to the action. Such expenditure is subject to external controls by the Court of Auditors, the legal control of budgetary implementation by the

⁴ See established case law of the European Court of Justice, recently confirmed by Case C-376/98 Germany v European Parliament and Council [2000] ECR I-8419.

⁵ See non-exhaustive overview of range of possible crisis management operations under the Community (1st pillar) in Annex I.

⁶ CFSP operations not having military or defense implications are for example structural and long-term issues such as non-proliferation, disarmament, security monitoring, security support for peace processes and stabilization efforts, projects to combat terrorism, political facilitation and tasks undertaken by Special Representatives of the European Union as well as related preparatory fact-finding missions.

Further progress of ESDP under CFSP will allow the European Union eventually to perform military actions, thus contributing to an overall crisis management capability. But the military dimension of crisis management is only one part of overall CFSP action in conflict and crisis situations.

European Court of Justice and the discharge procedure at the European Parliament. A transparent and democratically accountable procedure is thus assured for the financing of CFSP operations – though that procedure is admittedly too cumbersome at present.

As regards c) – ESDP operations having military or defense implications – the permanent political and military structures which have been set up in the past two years are designed to ensure synergy between the civilian and military aspects. Once again, it is the aim and content of an envisaged operation, not the nature of the implementing body that determines the related legal basis and the source of financing for an action. In a future deployment of the Rapid Reaction Force or other military actions, the situation is clear: financing from within the Community budget, under any title, will be precluded. But even a military body may perform CFSP crisis management tasks without rendering the action automatically ‘military’.⁷ This may be the case, for example, for certain monitoring or police missions.

4. Procedural and budgetary constraints on the effectiveness of CFSP operations

It is clear that the present procedures related to CFSP operations within the budget are too cumbersome for crisis situations. Furthermore, there would not be sufficient resources in the present CFSP budget if the European Union ever decided, say, to extend the EU Monitoring Mission in the Balkans, or to undertake a major police operation. Both procedural and budgetary constraints, in other words, threaten to reduce the potential and credibility of the European Union’s new global role.

4.1. *Overcoming procedural constraints*

If CFSP is to continue to be financed within the budget, it is essential to develop new procedures adapted to the particular needs of crisis management, notably to increase speed and flexibility of disbursement. The practice of CFSP implementation does not yet match the political expectations. The budgetary rules contain no urgency mechanism for the rapid implementation of CFSP operations. This contrasts with the situation in other areas. It is therefore important that the provisions for CFSP and crisis management foreseen in the proposal⁸ for a recast Financial Regulation (as adopted on 30 October by the Commission) are accepted by the Budgetary Authority.

The Commission is streamlining the management of financial operations in other ways. It is shortening the decision-making process.⁹ It is devolving financial management responsibilities to external Delegations which will enable them to react more quickly when they are asked to take responsibility

⁷ Note that for example in line with the principle that the aim and content of an envisaged operation determines the legal basis, Article 3 of Regulation (EC) No 1257/96 concerning humanitarian aid, *OJ L 163, 2.7.1996, p. 1*. This Community instrument allows for the financing of outside staff, including military personnel, for the storage, transport, logistics and distribution of humanitarian aid. Said Community instrument is also one of the possible financial sources for civil protection assistance.

⁸ Of specific interest among the proposed provisions are:

- (i) the derogation to the principle that subsidies to third parties should be pre-programmed;
- (ii) a possible derogation from the mandatory ex-post publishing of allocated subsidies for reason of confidentiality and security (Article 109 of the recast);
- (iii) a derogation from the principle of non-retroactivity for subsidies targeting situations for crisis management or humanitarian aid (Article 111 of the recast);
- (iv) Simplified procedures regarding public procurement.

⁹ An empowerment of a Member of Commission is envisaged in accordance with Article 13 of the rules of procedure of the Commission C(2000) 3614, *OJ L 308, 8.12.2000, p. 26*.

for the implementation of a CFSP action. It is also worth noting that in the reform of external assistance the Commission has brought together the project cycle for external assistance projects in one implementing unit. This will have benefits for CFSP also.

4.2. *Providing budgetary flexibility*

As a rule, expenditure for civilian actions under CFSP crisis management is charged to the budget dedicated to the CFSP.¹⁰ In exceptional cases, the Council acting unanimously may decide to charge the expenditure to Member States.¹¹ Expenditure with military or defense implications is always charged to Member States. The possibility of charging operational expenditure to the Member States is, however, limited to CFSP actions. It is not legally possible, nor would it be financially sound, to charge expenses of Community instruments to the Member States.

The budgetary constraint might be eased *either* through systematic recourse to the possibility offered in Article 28 of the EU Treaty to draw on contributions from Member States *or* by creating greater flexibility within the regular budget. The first option is currently being discussed in the Council, in the context of a possible new ad-hoc fund.¹² The second option, which would keep CFSP crisis expenditure within the established budget structures, might involve either making better use of budgetary reserves, or perhaps greater recourse to the new flexibility instrument. The Commission believes that this second option deserves serious consideration.

Financing civilian CFSP operations in crises through a new ad-hoc fund may seem an attractive solution. But it would raise many questions:

- the EU Treaty is silent on the management and the control of such a fund. Unless management were to be given to the Commission, as in the case of the European Development Fund, Member States would have to create a body parallel to the existing budgetary machinery, running counter to a recent recommendation of the Court of Auditors which insisted on greater transparency in financing of CFSP operations.¹³
- it would widen divisions between the first and the second pillar and so threaten to undermine the consistency of the European Union's external activities.
- any new management body would have to be responsible for all aspects of the budgetary cycle from the preparatory phase through implementation, accounting and financial control to possible discharge procedures. Given the small volume of funding to be handled relative to the overall EU budget, it would be difficult to achieve cost-effectiveness in the administrative structures required to cope with these tasks.
- the lack of Parliamentary control for such a fund would raise serious concerns about accountability and about the division of responsibilities between the two branches of the Budgetary Authority. With two parallel sources of financing for crisis actions, it would be hard to conduct a political dialogue on priorities.

¹⁰ Article 28(3) first subparagraph of the Treaty on European Union.

¹¹ See Annex II on applicable budgetary rules.

¹² See Council Document on financing operations of crisis management 10716/01 dated 09.07.2001, Council Document on financing CFSP/ESDP 11910/01 dated 17.09.2001 and Council Document as option paper on the financing of operations having military or defence implications 13043/01 dated 19.10.2001.

¹³ See recommendation n° 2 (point 69) of Special Report No. 13/2001 on the management of the Common Foreign and Security Policy (CFSP), published on the website of the Court of Auditors (http://www.eca.eu.int/EN/reports_opinions.htm).

- ▶ an ad hoc outside the regular budget fund might be seen as a way to circumvent normal budgetary procedure rather than seeking to improve the effectiveness of existing mechanisms for crisis intervention, including CFSP action.

In sum, a separate ad-hoc fund would be likely to generate inconsistency, politically and financially, rather than closer cohesion.

By contrast, revising or introducing new budget mechanisms for CFSP financing of crisis operations could be done without any major amendments in existing budget management structures while respecting the provisions on CFSP in the Treaty of Amsterdam. Such expenditure would remain within the regular EC budget, respecting the principles of governance and transparency emphasized by the Court of Auditors. CFSP financing mechanisms within the budget could be streamlined and the possibility would remain to resort to Member State contributions in exceptional cases in accordance with Article 28 (3) of the EU Treaty.

5. The creation of a new budgetary mechanism for crisis interventions

Both Community and CFSP appropriations are subject to the current financial perspective, which runs until 2006. Hence, the current resources available for crisis management do not match the very ambitious targets developed since 1999 and would certainly not be sufficient to cover crisis actions such as a substitution of local police forces in non-member countries. Although situations of this kind are not likely to arise very often, we need to reflect on how to mobilize the resources that would be necessary to face them.

The most logical solution would be to establish a reserve for crisis management¹⁴ outside the heading for external actions (Heading 4). This would match the recent step change in both the ambition and capability of EU, Community and CFSP, to address crisis situations. But it could involve a revision of the financial perspective ceiling.

Given the sensitivity of such a step it might be prudent, rather, to reach the same objective both by creating a new flexibility instrument for civil crisis interventions, including CFSP action, and by extending the use of the current emergency reserve¹⁵ to CFSP crisis interventions. Through the new flexibility instrument, it would be possible to address unforeseen and exceptional circumstances while maintaining the ceiling in Heading 4 within the overall financial perspective agreed at Berlin. Such a new instrument must be set up by a new Inter Institutional Agreement between Council, Parliament and Commission, by which the procedures for its mobilization have to be determined. As for the emergency reserve, it is the Commission's view that, while maintaining priority for humanitarian action,¹⁶ the provisions governing this reserve already allow for such extended use. In 2000, for example, the

¹⁴ Similar to the existing reserves (Article 23 (c) of the Interinstitutional Agreement of 6 May 1999 between the European Parliament, the Council and the Commission on budgetary discipline and improvement of the budgetary procedure). Heading 6 of the financial perspective currently foresees the monetary reserve, the reserve for guaranteeing loans to non-member countries and the emergency aid reserve.

¹⁵ Article 23 (c) of the Inter-institutional Agreement of 6 May 1999 between the European Parliament, the Council and the Commission on budgetary discipline and improvement of the budgetary procedure reads explicitly: "[T]he purpose of the emergency aid reserve is to provide a rapid response to the specific aid requirements of non-member countries following events which could not be foreseen when the budget was established, first and foremost for humanitarian operations."

¹⁶ The terms of the Inter-institutional Agreement are reiterated in Article 16(1), last sentence, of Regulation (EC) No 2040/2000 on budgetary discipline, *OJ L 244*, 29. 9.2000, p. 27, which speaks of "a rapid response to specific emergency aid requirements in non member countries resulting from unforeseeable events, with priority being given to humanitarian operations".

reserve was used to fund the special assistance granted to the Federal Republic of Yugoslavia in order to consolidate the new democratic government in the civil crisis following the ousting of Milosevic.

In management terms:

- ▶ Given past experience, it will be necessary to examine how to ensure a more rapid decision-making procedure for the new flexibility instrument, for example by accelerating the adoption of a Supplementary and Amending Budget (SAB). Equally, an assessment should be made of how other implementation procedures could be simplified and accelerated, including flexibility provisions in the respective regulations, the conclusion of framework agreements, etc.
- ▶ The mobilisation of the funds from the emergency reserve would follow present rules, involving a transfer proposal to be adopted by the Budgetary Authority.

This approach, drawing on the existing budgetary framework and procedures, has three advantages: First, the necessary resources are called in from Member States only when the reserve is implemented. Second, no new funding key is required. And third, by relying on the established budgetary management structures administrative overheads are kept to a minimum.

Conclusion

The European Union must grow into its new role as a global player in crises and equip itself with the necessary means. This can be achieved within the existing budgetary structures.

Community instruments and CFSP instruments are complementary. They cannot substitute each other. The bulk of civilian crisis management can be undertaken using Community instruments.

The idea of a parallel budget process outside existing structures is superficially attractive, but it could lead to duplication; reduced management efficiency; lack of budgetary transparency; and incoherence in overall financial management in the EU.

By working instead within the existing structures to maximize the funding available for crisis management under both Community instruments and the CFSP, and by improving the operational efficiency of these mechanisms, the European Union would be better equipped to develop its role in conflict prevention and crisis management. This approach would also reflect the close links, emphasized repeatedly by the European Council, between short-term crisis management interventions and long term conflict prevention.

ANNEX IV - Court of Auditors Special Report No. 13/2001

ON THE MANAGEMENT OF THE COMMON FOREIGN AND SECURITY POLICY (CFSP), TOGETHER WITH THE COUNCIL'S REPLIES AND THE COMMISSION'S REPLIES

(Pursuant to Article 248(4), second subparagraph, EC)

Published in Official Journal C338, 30/11/2001

Introduction

The common foreign and security policy

1. Title V of the Treaty on European Union (TEU) lays down the provisions establishing and governing the CFSP. Its objectives, as set out in Article 11(1) of the Treaty, are:

- '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, as well as the principles of the Helsinki Final Act and the objectives of the Paris Charter, including those on external borders,

- to promote international cooperation,

- to develop and consolidate democracy and the rule of law, and respect for human rights and fundamental freedoms.'

2. Article 12 defines the type of action to be taken:

'The Union shall pursue the objectives set out in Article 11 by:

- defining the principles of and general guidelines for the CFSP,

- deciding on common strategies,

- adopting joint actions,¹

- adopting common positions,²

- strengthening systematic cooperation between Member States in the conduct of policy.'

3. Institutional responsibilities for the approval and implementation of these common measures as set out in the TEU are outlined in Annex 1. It does not include the role of the Secretary-General of the Council in his capacity as High Representative for the CFSP, who, according to Article 26 of the TEU, 'shall assist the Council in matters coming within the scope of the common foreign and

¹ According to Article 14(1) of the TEU, 'Joint actions shall address specific situations where operational action by the Union is deemed to be required'.

² According to Article 15 of the TEU, 'Common Positions shall define the approach of the Union to a particular matter of a geographical or thematic nature'.

security policy, in particular through contributing to the formulation, preparation and implementation of policy decisions, and, when appropriate and acting on behalf of the Council at the request of the Presidency, through conducting political dialogue with third parties'. The common measures decided by the Council in the period 1997 to 1999 are listed in Annex 2, showing their financial impact on the budget of the European Union.

4. Article 28(2) and (3) of the TEU contains the following basic provisions for financing the CFSP under two categories of expenditure:
 - a) 'Administrative expenditure which the provisions relating to the areas referred to in this title entail for the institutions shall be charged to the budget of the European Communities.'
 - b) 'Operating expenditure to which the implementation of those provisions gives rise shall also be charged to the budget of the European Communities, except (...) cases where the Council acting unanimously decides otherwise.'
5. Additional financial provisions are specified in the Council decisions adopting common measures. When adopting joint actions, the Council lays down their objectives and scope, the means to be made available to the Union, and, if necessary their duration, and the conditions for their implementation.³
6. The range of common measures is broad from the point of view of geography, subject matter and duration. Furthermore, the implementing body may be an international organization or agency, a non-governmental organisation, a national, provincial or local government department, agency or institute, private sector company or person. In 1999, the amount of Community financial resources⁴ allocated to joint measures varied between 0,2 million euro and 16,2 million euro. In some cases the Commission has to perform the measures very quickly. In the period 1993 to 1996, there were 18 Council decisions for joint measures financed from subsection B8, whereas there were 40 actions in the period 1997 to 1999 (see Annex 2).

Common measures: financial and budgetary data

7. The total amount allocated to common measures in 1997 to 2000 under subsection B8 of the general budget of the European Union was 141,2 million euro. Annex 3 gives more detailed information about the budgetary implementation of budget headings under subsection B8⁵ in 1997 to 1999, the years primarily covered by the Court's audit (see paragraphs 17 and 18). However, this does not reflect completely the total costs of CFSP actions. Member States and other donors co-finance some of the common measures and the Council or the Commission may also finance such measures using other financial resources (see paragraphs 32 to 40). Moreover, the Council

³ Article 14(1) of the TEU.

⁴ B8 only.

⁵ Annex 3 describes the implementation of the budgets for 1997 to 1999 in 1997 to 1999. It does not include the appropriations carried over from the earlier years or carried over to the years after 1999, but it includes payments to actions decided earlier than in 1997. Annex 2 describes the implementation of the projects in 1997 to 2000. The difference in the total amount of commitments between Annexes 2 and 3 is approximately 13 Mio euro. It derives mainly from the situation where the commitment is charged against appropriations of the year following that of the Council decision.

uses budget item A-1 1 1 3 for the preparatory costs of common measures. The amounts committed under this heading were 0,2 million ECU in 1997, 0,5 million ECU in 1998, 0,6 million euro in 1999 and 1,2 million euro in 2000. However, this budget heading covers the expenditure for all the Council's special advisers, including activities outside the CFSP, so that the cost of the preparation of CFSP actions cannot be derived directly from that budget heading.

Table 1
Common foreign and security policy
Budgetary execution 1997 to 1999

(Mio ECU/EUR and %)

| Community Budget | Appropriations | |
|---|----------------|---------|
| | Commitment | Payment |
| Initial budget | 60.0 | 44.2 |
| Supplementary and amending budget transfers | 34.2 | 41.4 |
| Final budget | 94.2 | 85.6 |
| Execution | 74.7 | 65.6 |
| Percentage | 79.3% | 76.6% |

Source: General budget of the European Union 1997 to 1999. Compte de Gestion 1997 to 1999. Sincom.

8. The operating budget of the CFSP under subsection B8 was approximately 179 Mio ECU for the period 1993 to 1996, which was an average of 45 Mio ECU per year. However, it is to be noted that the joint action concerning the European Union administration in Mostar with an operating budget of 122 Mio ECU occurred during that period. It was by far the largest CFSP action. Without this action the average amount committed would have been 14 Mio ECU per year. For 1997 to 2000, the average amount per year was 35 million euro and the largest amount for a single action was 16,2 million euro.
9. From 1999 onwards the financing of operations contributing to developing and consolidating democracy and the rule of law, and respect for human rights and fundamental freedoms, and support for elections and election-monitoring was transferred from subsection B8 (CFSP) to subsection B7 (External actions).

The Court's Opinion No 1/97 on the common foreign and security policy

10. In 1996 to 1997, in response to a request from the European Parliament⁶ the Court audited the conditions governing the implementation of expenditure under the CFSP. The Court's Opinion No 1/97 on 10 April 1997⁷ made the following main points:

⁶ Resolution sent to the Court, in the name of the President of the European Parliament, by the Secretary-General on 29 April 1996.

⁷ The opinion was not published.

- a) there was a lack of clear criteria for determining the source of Community funding;
- b) little or no information was available on the amounts disbursed by different Member States or by other donors;
- c) preparatory work was considered by the Council as administrative expenditure and therefore charged to Section II – Council – of the general budget, leading to a loss of transparency in the management of the budget;
- d) financial resources were not made available in time to permit efficient implementation or to carry out the preliminary work required before a common measure is decided upon;
- e) in the absence of clear definitions, the Commission's role in determining the financial, legal and operational arrangements needed for the implementation of the CFSP measures involving expenditure was not clearly established.

Some implications for the CFSP of the Treaty on European Union

- 11. The Amsterdam Treaty on European Union entered into force in May 1999. The text concerning the CFSP was partly modified and restructured.
- 12. Article 17 of the TEU extends the CFSP to 'all questions relating to the security of the Union, including the progressive framing of a common defence policy, which might lead to a common defence, should the European Council so decide'. However, on the basis of Article 28(3) of the TEU, the budget of the European Communities does not include operating expenditure arising from operations having military or defence implications.
- 13. The Treaty of Amsterdam is less detailed about the content of CFSP Decisions than the previous Treaty, thereby implicitly allowing the delegation of some implementing authority from the Council to the Commission.⁸ So far, this possibility has not been used in the context of the CFSP. However, certain activities previously financed under CFSP expenditure (subsection B8) have now been or will be covered by Council regulations, which means that such actions are or will be financed from budget headings under the first pillar. These include activities in the area of human rights and democracy, mine-clearance activities, the costs of the Office of the High Representative (OHR) to Bosnia and Herzegovina and support for the United Nations Interim Mission in Kosovo (UNMIK). Consequently, for these activities, decision-making authority is transferred from the Council to the Commission.
- 14. The role of the Secretary-General of the Council in his capacity as High Representative is set out in the TEU. However, the TEU neither supplies nor requires a definition, spelling out the respective roles of the Secretary-General of the Council and of the Commission.
- 15. The possibility of appointing special representatives (EUSR⁹) with a mandate in relation to particular policy issues was also introduced by the Treaty of Amsterdam (Article 18(5)). This was the recognition of a practice, which was already in place.

⁸ Article 14(1) of the TEU.

⁹ In this report, this title is also used as a universal definition, even though the Council Decision may have used another title, such as 'special envoy'.

Objectives and scope of the present audit

16. In December 1997, the European Parliament requested the Court of Auditors in its resolution¹⁰ about Opinion No 1/97 'to submit a special report on the implementation of CFSP no later than two years after the entry into force of the Amsterdam Treaty'.
17. The objective of the audit was to assess the evolution of the conditions governing the implementation of expenditure under the CFSP in the period 1997 to 1999. Simultaneously the audit examined whether the main shortcomings pointed out by the Court in its earlier opinion had been corrected.
18. The audit covers all operations decided by the Council during the period 1997 to 1999 (partly implemented during 2000 and 2001). The audit also covered actions decided before 1997 but implemented in 1997 or later. It was based on documentation available, mainly at the level of the Commission's departments, but did not include on-the-spot visits to carry out checks on CFSP actions.

[...]

CONCLUSIONS AND RECOMMENDATIONS

Improvements since the Court's Opinion No 1/97

65. There have been some notable improvements in recent years, such as improving the criteria determining the source of Community funding, creation of a budget line for preparatory costs, abandoning of budgetary reserve and setting employment conditions for EUSRs. However, more remains to be done to solve fully the problems raised in the Court's Opinion No 1/97 (see paragraph 10).

Framework for the CFSP actions

66. The role of the Commission in determining the financial, legal and operational arrangements is still unclear (see paragraphs 19 to 30). Furthermore, by defining the costs of EUSRs as 'administrative' and consequently financing those costs through the Council's budget, a part of the implementing authority has been shifted to the Council. This weakens the Commission's role in the implementation of CFSP actions (see paragraphs 62 to 64).

67. Recommendation 1

The European Parliament, the Council and the Commission should adopt at an interinstitutional level clear operational principles and arrangements with regard to the Commission's role in the implementation of the CFSP. In this context for example the following matters in particular should be dealt with:

¹⁰ Resolution of the European Parliament of 19 December 1997 on the Court's Opinion No 1/97, point 7 (OJ C 14, 19.1.1998).

- a) the role of the Commission in influencing the conditions for the implementation of Council decisions related to joint actions and Common Positions should be enhanced;
- b) the Commission's role in closing an ongoing action, when its continuation is no longer relevant, should also be enhanced;
- c) the present classification of the costs of the Special Representatives as administrative expenditure should be reconsidered;
- d) the Commission services should have an adequate staffing level to meet the requirements of managing properly the CFSP actions.

Budgetary arrangements

68. The Council decisions and the Commission decisions in respect of the CFSP operations exceed the annual limits of the appropriations in the general budget of the European Union. In case of co-financing, agreement on cost-sharing between different donors is lacking and the total costs for actions can still not be derived from preparatory documents or from financial reports on the actions. On the basis of the present criteria similar actions can still be financed by more than one budget subsection (see paragraphs 32 to 43).

69. Recommendation 2

The financing of the CFSP actions should be managed in a more transparent manner. In particular:

- a) commitments should be charged to the budget of the year in which decision for actions is taken;
- b) in cases of co-financing clear arrangements should be made on the sharing of the costs;
- c) the Commission and the Council should work out together a method by which the contributions in kind are evaluated in a consistent way on the basis of the real costs of the contributions. If, however, reliable information cannot be obtained from all Member States, the financial statements accompanying Council decisions should at least include the functions of seconded persons, the name of the seconding Member State, and the duration of secondments. The contributions in kind made by the institutions and the Member States should be reported in the financial reports produced on CFSP actions;
- d) the preparatory costs, financed by the Council, should have a separate budget item;
- e) the general criteria for the exercise of either Community powers (financing through other subsections than B8) or the European Union's powers under the CFSP (financing through subsection B8) should be developed in order to eliminate borderline cases.

Delays in launching the actions

70. The time lapses between the Council decision and the implementation of actions are often considerable which can put the impact of actions at risk (see paragraphs 44 to 47).

71. *Recommendation 3*

The Commission should launch an enquiry on the causes of long delays and reassess the action as well as the partner for the management of the action.

Contracting

72. In many cases, contracts between the Commission and those implementing CFSP actions have been amended. Often this has meant retroactive changes to the elements of the project budget and/or extension of the duration of the project. In some cases the extension exceeded the final deadline set by the Council, even though the Commission does not have authority to do this. The reason for extending contracts was often that the entire amount committed had not been used by the time the contract expired (see paragraphs 48 to 53).

73. *Recommendation 4*

The Commission should amend contracts retroactively or extend them only in cases of force majeure. Certain practical measures facilitating the smooth implementation of actions should be sought.

In particular:

- a) given the delays between the Council decisions and the start of the action, and the need to reduce extensions of actions while maintaining the planned scope of the actions, the deadline laid down for the completion of a project should be set from the time of the signing of the contract between the Commission and those implementing the action;
- b) if an existing operation is to be continued, the relevant Council decision should be taken sufficiently early for the extension of contracts relating to the implementation of the action to be finalised in time to avoid the interruption of contracts which hinders the smooth implementation of the actions. The target should be to reach a Council decision by July of one year for an activity which is to continue the following year;
- c) contracts should provide systematically for informing the Commission about minor changes, within set limits, through the normal periodical reporting system, avoiding formal amendment of the contract;
- d) a specific manual on the implementation of CFSP actions should be introduced.

Employment conditions

74. Conditions governing remuneration and salary-related costs for EUSRs were laid down in a Commission communication in June 1998, and followed with one exception. They were, however, not applied to EUSRs appointed before that date. Besides, conditions for other staff financed under the projects have not been laid down. The practice concerning salary-related costs of seconded staff paid from the CFSP project funds varies depending on the action and/or the seconding Member States or institution (see paragraphs 55 to 58).

75. Recommendation 5

The Council and the Commission should establish clear rules on remuneration and salary related costs.

In particular:

- a) the applicable rules should be applied without exception both to EUSRs and other staff financed by projects. When the contracts of the EUSRs are next renewed, the rules should also be applied to those who are still benefiting from more favorable terms;
- b) for seconded staff, only mission costs should be paid from CFSP project funds;
- c) high risk insurance for the spouses or children of EUSRs or other staff should be paid from project funds, when sited in high risk areas only, in analogy with the provisions of Annex X to the Staff Regulations.

Reporting and evaluations

76. Reporting is irregular, incomplete and unclear. Neither the Commission nor the budgetary authority is fully informed on a timely basis about the result of CFSP actions. Audits and evaluations are not carried out on a systematic basis (see paragraphs 59 and 60).

77. Recommendation 6

Arrangements should be laid down for adequate reporting, audit and evaluation.

In particular:

- a) the Commission should develop clear reporting formats and should establish clear rules on the frequency and content of reporting at various levels of the operation;
- b) to improve the quality of overall control, the Commission should arrange for audits to be carried out systematically for all important actions on the basis of clear terms of reference covering the totality of operations financed by the EU or co-financed with other donors. For actions of a longer duration audits should be carried out on an annual basis. The reports should present detailed findings and recommendations;
- c) the Commission should have independent evaluations made, at least for more important types of operation, even when the Council decision does not explicitly request them. It would be useful to prepare the terms of reference for such evaluations in cooperation with the Council.

This report was adopted by the Court of Auditors in Luxembourg at its meeting of 13 September 2001.

*For the Court of Auditors
Jan O. KARLSSON
President*

ANNEX V - European Council, Seville, 21-22 June 2002

PRESIDENCY REPORT ON ESDP (ANNEX II)

Financing of EU-Led Crisis Management Operations having military or defence implications

1. Introduction

1.1 Article 28 of the TEU sets the principles for financing of crisis management operations:

- a) Under Title V of the TEU, administrative expenditure entailed for the Institutions (whether or not arising from operations having military or defence implications) is to be charged to the EC budget, in accordance with the provisions of article 28.2 TEU.
- b) Operational expenditure arising from operations having military or defence implications must be charged to the Member States in accordance with article 28.3 TEU. This implies the use of military assets for military tasks as well as the use of non-military assets (e.g. medical, means of transport) strongly related to the overall military operation²
- c) It should also be recalled that, following the provisions of article 28.3, “as for expenditure arising from operations having military or defence implications, Member States whose representatives in the Council have made a formal declaration under article 23 (1), second paragraph, shall not be obliged to contribute to the financing thereof”.

1.2 Definition of the modalities for funding crisis management operations raises however a number of questions. Such modalities should, in particular, allow the force generation process to be conducted efficiently and rapidly and enable operations to be launched and conducted in a cost-efficient and military effective manner. Member States will expect that the operation is conducted in such a way as to minimise the budget whether borne through national expenditure or through a repartition of common costs.

2. General Principles

2.1 The financing of operations having military or defence implications will be based on the combination of the three following components:

- common costs are costs that cannot be allotted to individual States taking part in a crisis management mission, as limitatively enumerated in section. 2.4 below.
- when launching an operation, the Council will decide on a case-by-case basis, taking into account the particular circumstances of the operation, whether the costs for the transportation of the forces, the barracks and the lodging for the forces will be funded in common.
- all other costs will be considered as “individual costs”, financed on a “costs lie where they fall” basis.

2.2 Common financing of incremental costs for ESDP operations with military or defence implications does not entail financing of military assets and capabilities offered by participant States on a voluntary basis and compiled in the Helsinki Force Catalogue (HFC), or of shortfalls in capabilities that occur in the course of the Force Generation Process.

The Helsinki Headline Goal Catalogue (HHGC) as agreed by Member States imposes that the sending nations are responsible for obtaining transportation resources to deploy, sustain and redeploy its forces. Therefore, the present arrangements on financing specific operations do not put this objective into question and do not interfere in equipment plans.

2.3 When it comes to costs arising from operations having military or defence implications, a number of expenditure exist regardless of whether assets are deployed or not in an operation (e.g. staff salary, equipment and accommodation). This expenditure will not be taken into account when establishing the budget of an operation. For this purpose it is thus necessary to focus on additional or incremental costs related to the deployment of assets in operations

2.4 As far as “common costs” are concerned:

a) it is proposed that the EU concept of common funding cover the following items (the relevant definitions are contained in the annex):

Incremental costs for (deployable³ or fixed) headquarters for EU-led operations

- transport costs
- administration
- locally hired personnel
- communications
- transportation/travel within the operations area of HQs
- barracks and lodging/infrastructure
- public information
- representation and hospitality

Incremental costs incurred for providing support to the forces as a whole

- infrastructure
- additional equipment
- identification marking
- medical

b) Precise financial arrangements (which could include a budget or a post-operation settlement of costs, as necessary) intended to cover the common costs of a crisis management operation having military or defence implications will be established on a case by case basis by the unanimous Council decision launching the operation. These financial arrangements will be implemented by the Presidency with the assent, adopted unanimously, of a special committee which shall assist it and which shall be made up of representatives of the Member States which contribute to the financing of the operation in accordance with Article 28(3) TEU, having the necessary authority. The Committee of Contributors will be kept informed of the action taken by the Presidency. The administration of the financial arrangements may be entrusted, as appropriate, to the financial controllers of the operation headquarter.

3. Review

The above-mentioned financing solution is an interim one. A full review will take place after the first operation is concluded or by June 2004 or earlier if necessary, taking into account the lessons learnt from the conduct of operations and their administration.

4. Further work to be done

The proposed financing solution provides a general framework. However more detailed work will be necessary in order to finalize the outstanding issues. In particular the following items need more clarification and elaboration:

- the possible need for a separate budget for EU common costs as well as for adequate control and auditing related to the revenue and expenditures in such a budget.
- consideration of the modalities of post-operation settlements of costs, which should take into account those cases in which common funding have financed investments that are to be allotted to individual Member States.
- consideration of a possible start up fund for common preparatory costs, and, as appropriate, modalities of management of any such fund.
- the financial modalities for EU use of NATO common assets and capabilities, which will be defined through EU-NATO agreement on the Berlin Plus arrangements.
- modalities for contribution of third countries.
- consideration should be given to civil-military interaction in the appropriate fora.
- further refinement of the annexed list of common costs and definitions.
- modalities for the retention and maintenance of any commonly purchased equipment if considered necessary.

List of common costs + Definitions

Common expenditure on goods and services shall be spent only for requirements over and above those, which could reasonably be expected to be covered from national resources.

Incremental costs for (deployable or fixed) headquarters for EU-led operations

| Headquarters (HQ) | Operation, Force and Component Headquarters |
|---------------------------------------|--|
| Operation Headquarters (OHQ) | The static, out-of-area Headquarters of the operation commander, which is responsible for building up, launching, sustaining, and recovering an EU force |
| Force Headquarters (FHQ) | The Headquarters of an EU-force deployed to the area of operations |
| Component Command Headquarters (CCHQ) | The Headquarters of an EU Component Commander deployed for the operation (i.e. Air, Land, Maritime and other specific functions Commanders that could be deemed necessary to designate depending on the nature of the operation) |

- Transport costs: transport to and from the theatre of operations to deploy, sustain and recover FHQs and CCHQs
- Administration: Management of internal affairs of a headquarters (such as additional office and accommodation equipment, contractual services and utilities, maintenance costs of the buildings).

- Locally hired personnel: Civilian personnel, international consultants and locally hired (national and expatriate) personnel needed for the conduct of the operation over and above the normal operational requirements (including any overtime compensation payments).
- Communications: Capital expenditure for the purchase and the use of additional communications and IT equipment and costs for rendered services (lease and maintenance of modems, telephone lines, satphones, cryptofax, secure lines, internet providers, data lines, local area networks...).
- Transportation/travel¹ within the operations area of HQ: expenditure related with vehicle transportation and other travel by other means and freight costs, including travel by national augmentees and visitors; incremental costs of fuel over and above what normal operations would have cost; lease of additional vehicles; costs of official journeys between the operational location and Brussels and/or EU-organised meetings; travel costs of HQ members to operation related conferences and activities for conduct of operations; third party insurance costs imposed by some countries upon international organisations conducting operations on their territory.
- Barracks and lodging/infrastructure: expenditure for acquisition rental or refurbishing of required HQs facilities in theatre (rental of buildings, shelters, tents) if required and appropriate.
- Public information: costs related to information campaigns and to inform media at OHQ and FHQ, in accordance with the information strategy developed by the operational HQ.
- Representation and hospitality: representational costs; costs at HQ level necessary for the conduct of an operation.

II. Incremental costs incurred for providing support to the force as a whole:

The costs defined below are those incurred following the force deployment to its location

- Infrastructure: expenditure absolutely needed for the force as a whole to fulfill its mission (common used airport, railway, harbours, roads, power and water supply).
- Essential additional equipment: the rental or purchase in the course of the operation of unforeseen specific equipment essential for the execution of the operation, required by the EU commanders and approved by the special committee as defined in para 2.4.b, insofar as the purchased equipment is not repatriated at the end of the mission.
- Identification marking: specific identification marks, badges, flags or other Force or HQ identification marking (excluding clothes, hats or uniforms).
- Medical: the rental of emergency medevac (medical evacuation) flight where medical treatment cannot be provided in theatre.

¹ Excluding “per diem” costs.

Abbreviations

| | |
|--------|--|
| ACP | African, Caribbean and Pacific |
| AWACS | Airborne Warning And Control Systems |
| CARDS | Community Assistance for Reconstruction, Development and Stabilisation |
| CFSP | Common Foreign and Security Policy |
| DDR | Demobilisation, Disarmament and Reintegration programme |
| DPKO | Department of Peace-Keeping Operations |
| ECHO | European Community Humanitarian Office |
| EDF | European Development Fund |
| ESDP | European Security and Defence Policy |
| EU | European Union |
| EUAM | European Union Administration of Mostar |
| EUPM | European Union Police Mission (Bosnia) |
| FYROM | Former Yugoslav Republic Of Macedonia |
| GDP | Gross Domestic Product |
| IMF | International Monetary Fund |
| IPTF | International Police Task Force (Bosnia) |
| KFOR | Kosovo peace implementation Force |
| MAPE | Multinational Advisory Police Element (Albania) |
| MNF | Multi-National Forces |
| NATO | North Atlantic Treaty Organisation |
| OSCE | Organisation for Security and Cooperation in Europe |
| PHARE | Pologne-Hongrie - Assistance a la Reconstruction des economies |
| RRM | Rapid Reaction Mechanism |
| SACEUR | Supreme Allied Commander EUROpe |
| SFOR | Stabilisation Force (Bosnia) |
| TACIS | Technical Assistance to the Commonwealth of Independent States |
| TEC | Treaty establishing the European Community |
| TEU | Treaty on European Union |
| UN | United Nations Organisation |

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