



HOUSE OF LORDS

European Union Committee

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7th Report of Session 2010–2011

**Future inter-  
parliamentary  
scrutiny of EU  
foreign, defence  
and security policy**

Report

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## Summary

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The dissolution of the Western European Union (WEU) and its Assembly in 2011 threatens to leave the EU's inter-governmental Common Foreign and Security Policy (CFSP) and Common Security and Defence Policy (CSDP) without inter-parliamentary scrutiny<sup>1</sup>. The inter-governmental nature of decision-making in the CFSP and CSDP, and the significance of the CFSP and CSDP activities to which EU Member States may agree, make it important that inter-parliamentary oversight should be continued, with national parliaments taking the lead. This short Report puts forward a proposal for successor arrangements to the WEU Assembly which has been drawn up in a process of consultation among relevant Select Committee Chairman and Chairs of both Houses of Parliament, with a view to putting this proposal before each House for its approval. The Report recommends that the WEU Assembly should be succeeded by an EU Inter-parliamentary Conference on Foreign Affairs, Defence and Security (COFADS). COFADS would secure continued inter-parliamentary scrutiny of this area of EU activity, would not be an additional or autonomous institution and would minimise costs, while adding value to the work that each national parliament does on its own in this field.

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<sup>1</sup> Interparliamentary scrutiny refers to cooperation between national parliaments and the European Parliament. Following the Lisbon Treaty, this takes place in the framework provided by Title II of Protocol 1 on the role of national parliaments in the EU.



# Future inter-parliamentary scrutiny of EU foreign, defence and security policy

## Introduction

1. The Member States of the Western European Union (WEU) announced in March 2010 that they were dissolving the organisation, including its Assembly, with effect from mid-2011. A potential consequence of this action is that the EU's inter-governmental Common Foreign and Security Policy (CFSP) and Common Security and Defence Policy (CSDP) may be left without inter-parliamentary scrutiny. The inter-governmental nature of decision-making in the CFSP and CSDP means that parliamentary scrutiny of these policies should not be left to the European Parliament alone; the significance of the CFSP and CSDP activities to which national governments may agree in the European Council and EU Council means that national parliaments have an important role in holding national governments to account. Inter-parliamentary oversight of the CFSP and CSDP should be continued, with national parliaments taking the lead. This short Report puts forward a proposal for successor arrangements to the WEU Assembly. The proposal has been drawn up in a process of consultation among relevant Select Committee Chairmen/Chairs of both Houses of Parliament.

## WEU termination

2. The WEU Assembly was founded in 1954, under the modified version of the 1948 Brussels Treaty. Since the EU's 2001 Nice Treaty, the Assembly has been the WEU's only residual stand-alone institution, with the WEU's other institutions having been transferred to the EU. In 2008, the Assembly changed its name to the European Security and Defence Assembly (ESDA). ESDA scrutinises the EU's inter-governmental Common Security and Defence Policy (CSDP). The Assembly comprises delegations of national parliamentarians from the 27 EU Member States and the five non-EU European members of NATO (Albania, Croatia, Iceland, Norway and Turkey). Other interested European states, plus organisations including the European Parliament, are partner or observer members of the Assembly. The UK Delegation to ESDA comprises 18 members (13 MPs and five Members of the House of Lords) and 18 substitute members.<sup>2</sup>
3. On 30 March 2010, just prior to the UK General Election, the then Government announced that it intended to withdraw the UK from the WEU.<sup>3</sup> It commented that the WEU was "no longer relevant to today's European security architecture", and that the role being played by the Assembly did not justify its cost to the UK of over €2 million per year.<sup>4</sup> The

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<sup>2</sup> The current delegation was appointed on 10 November 2010. The party distribution reflects the composition of the House of Commons.

<sup>3</sup> The UK Government deposited with the Government of Belgium on 7 May 2010 the UK's Instrument giving notice of Denunciation of the Brussels Treaty from 30 June 2010 with effect on 30 June 2011; FCO, *The Supplementary List: Treaty Ratifications, Accessions, Withdrawals, Etc.*, Treaty Series No. 20 (2010) No. 1, Cm 7952, October 2010, pp 122-4

<sup>4</sup> HC Deb, 30 March 2010, col 103WS

following day, the WEU Member States announced that they were terminating the Brussels Treaty and thereby abolishing the WEU, which they stated had “accomplished its historical role.” The Member States expressed their intention to have the WEU wound up by June 2011. As regards post-WEU inter-parliamentary scrutiny of the CSDP, the Member States stated that they encouraged “as appropriate the enhancement of inter-parliamentary dialogue in this field including with candidates for EU accession and other interested states”. The Member States suggested that the Lisbon Treaty’s Protocol 1 on the role of national parliaments in the EU (which had come into force with the Lisbon Treaty on 1 December 2009) might provide a basis for such inter-parliamentary dialogue.<sup>5</sup> We would like to place on record our appreciation of the work carried out by the WEU Assembly.

### Westminster process

4. In July 2010, the new Minister for Europe, David Lidington MP, wrote to us, to the House of Commons Foreign Affairs and European Scrutiny Committees, and to Mr Robert Walter MP, President of ESDA, soliciting views on post-WEU inter-parliamentary scrutiny of the CSDP. Mr Lidington set out a number of principles which the Government saw as important for future such scrutiny, namely that national parliaments should remain in the lead, and that there should be no expansion of the European Parliament’s competence; that parliamentarians from non-EU European NATO countries and EU candidate states should be included; and that costs and bureaucracy should be kept to a minimum.<sup>6</sup>
5. The addressees of Mr Lidington’s letter shared his view that there was an important role for a future inter-parliamentary forum on the CSDP following the WEU’s demise. The following developments took place in the two Houses:
  - In July 2010 we agreed a detailed position paper. This endorsed the principles outlined by Mr Lidington and set out a preferred option for post-WEU inter-parliamentary scrutiny of the CFSP and CSDP. We backed a “conference of committees”-type institution to replace the WEU Assembly, comprising a combined and enlarged version of the current informal Conference of Foreign Affairs Committee Chairpersons (COFACC) and Conference of Defence Committee Chairpersons (CODCC). We circulated this paper to interested parties in Westminster and beyond.
  - In the Commons, the new Foreign Affairs Committee and European Scrutiny Committee were not renominated in time to address the issue before the 2010 summer recess. The Foreign Affairs Committee wrote to Mr Lidington in September endorsing the broad principles which he had set out in his July letter. It also expressed a preference for a “conference of committees”-type model, along the lines of our proposal. It took the view that this would create the strongest link with national parliamentary scrutiny activities, and enable the participation at EU level of national parliamentarians with specialist knowledge, while avoiding duplication

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<sup>5</sup> Statement of the Presidency of the Permanent Council of the WEU on behalf of the High Contracting Parties to the Modified Brussels Treaty, Brussels, 31 March 2010, via [www.weu.int](http://www.weu.int). Article 10 of Protocol 1, on inter-parliamentary cooperation, is reproduced in Appendix 1 to this Report.

<sup>6</sup> Appendix 2; previously published by the House of Commons European Scrutiny Committee, in *Ministerial Correspondence 2010–11*

and minimising costs. Mr Bill Cash MP, Chair of the European Scrutiny Committee, also wrote to Mr Lidington in September, similarly expressing support for a future model based on COFACC and CODCC.

6. The Chairmen and Chairs of relevant Select Committees in both Houses felt that it would be helpful if the UK Parliament could reach and express a collective view as to its preferred arrangements for inter-parliamentary scrutiny of the CFSP and CSDP following the dissolution of the WEU. In particular, they wished this collective view to be placed on the public record in advance of the meeting of the EU Speakers' Conference in April 2011. (The Speakers' Conference has invited national parliaments to express their views on this matter, with the intention of, if possible, endorsing a common position at its April meeting.) With the approval of their Committees, a process of consultation took place between the Chairs of the Commons Foreign Affairs Committee, Defence Committee and European Scrutiny Committee, and the Chairmen of this Committee and our Sub-Committee on Foreign Affairs, Defence and Development Policy. Mr Robert Walter MP, as President of ESDA, also took part in the consultation process.
7. Following several informal meetings held between September and November 2010, the text of a proposal was agreed, based on our paper from July. Letters from Mr Cash and Mr James Arbuthnot MP, Chair of the House of Commons Defence Committee, expressing their Committees' support for the proposal, are printed with this Report.<sup>7</sup> An email from Mr Walter commenting on the proposal is also printed.<sup>8</sup> The Minister for Europe, Mr Lidington, attended two of the informal meetings, and a further letter from him to our Chairman is also printed<sup>9</sup>.
8. It was further agreed that the proposal might best be taken forward if it were presented to each House in the form of a Select Committee Report, with a view to seeking endorsement by each House. It was agreed that the Foreign Affairs Committee would take the lead in presenting such a Report to the House of Commons, on behalf of the other Commons Committees involved in this process, and it has reported to the House of Commons in similar terms to those of this Report.<sup>10</sup> The proposal is attached as Appendix 1 to this Report.
9. **We recommend that the House should endorse this proposal, and should request the Lord Speaker to present it to the EU Speakers' Conference in April 2011.**

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<sup>7</sup> Appendix 2

<sup>8</sup> Appendix 2

<sup>9</sup> Appendix 2

<sup>10</sup> *Future inter-parliamentary scrutiny of EU foreign, defence and security policy*, 1st Report 2010–11, HC 697



## **APPENDIX 1: PROPOSAL FOR ARRANGEMENTS FOR INTER-PARLIAMENTARY SCRUTINY OF THE EU COMMON FOREIGN AND SECURITY POLICY (CFSP) AND COMMON SECURITY AND DEFENCE POLICY (CSDP) AFTER THE ENDING OF WEU**

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### **Existing texts**

A proposal is presented below on the basis of the following two texts:

- *Article 10 of Protocol 1 to the Treaty on European Union and Treaty on the Functioning of the European Union on the role of national parliaments in the European Union, as amended by the Lisbon Treaty:*

A conference of Parliamentary Committees for Union Affairs may submit any contribution it deems appropriate for the attention of the European Parliament, the Council and the Commission. That conference shall in addition promote the exchange of information and best practice between national Parliaments and the European Parliament, including their special committees. It may also organise inter-parliamentary conferences on specific topics, in particular to debate matters of common foreign and security policy, including common security and defence policy. Contributions from the conference shall not bind national Parliaments and shall not prejudice their positions.

- *Contribution of COSAC (Conference of European Affairs Committees of Parliaments of the EU), 25 October 2010:*

COSAC stresses the need for parliamentary scrutiny of both CFSP and CSDP.

- (i) Parliamentary oversight of CFSP and CSDP should involve both national Parliaments and the European Parliament;
- (ii) The mechanism of parliamentary oversight of CFSP and CSDP should represent value for money and should add value to the work that Parliaments already do in this area;
- (iii) There should be no new institutions or bodies established;
- (iv) Parliamentary oversight should involve Members specialising in foreign affairs, defence and European Union affairs.

As a result, COSAC wishes that the new mechanism for parliamentary oversight of the CSDP be put in place during 2011.

### **Proposal**

The EU Speakers' Conference should invite COSAC (the Conference of European Affairs Committees of Parliaments of the EU) to use its power under Article 10 of Protocol 1 of the EU Treaties to resolve, at its next meeting (29-31 May 2011 in Budapest), to organise a biannual inter-parliamentary conference on CFSP, including CSDP. The conference should be called the EU Inter-parliamentary Conference on Foreign Affairs, Defence and Security (COFADS). COFADS should take the place of the Conferences of Foreign Affairs Committee Chairpersons (COFACC) and Defence Committee Chairpersons (CODCC) in the EU inter-parliamentary cycle. It should be governed by rules along the following lines.



## Fundamentals

1. There is a need for parliaments to meet to exercise oversight of EU foreign, defence and security policies.
2. COFADS should add value to the work that each parliament does on its own to oversee these policy areas.
3. These arrangements are inter-parliamentary, in conformity with the inter-governmental nature of CFSP and CSDP. They are not autonomous.
4. Costs will be kept to a minimum.

## Purpose and subject matter

5. COFADS may consider any aspect of CFSP and CSDP.
6. COFADS will deal primarily with substance (e.g. EU policies, initiatives, missions), rather than process (e.g. how each parliament conducts scrutiny).
7. COFADS may hear, debate and respond to presentations from, amongst others, government ministers, the High Representative for Foreign Affairs and Security Policy, EU Special Representatives, the European External Action Service, the Commission, the Council (including the Political and Security Committee, the EU Military Committee and the EU Military Staff), and any others as relevant, including non-EU and non-official bodies.
8. COFADS is able, but not obliged, to adopt Conclusions relevant to the debates held. These Conclusions may invite formal responses from the High Representative, Council, Commission or others. Conclusions will be agreed by consensus and are not binding on participants or their parliaments.

## Structure and practical arrangements

9. All EU national parliaments and the European Parliament, and only those parliaments, have full membership of COFADS. Parliaments of official EU candidate countries are invited as observers.<sup>11</sup>
10. No other body will have a standing invitation to COFADS. Any additional invitations are *ad hoc* and at the discretion of the troika country parliaments.<sup>12</sup>
11. Delegations will consist of a maximum of six delegates per parliament including the European Parliament (three per chamber for bicameral parliaments). The composition of delegations is a matter for each parliament, but delegations might be expected to include Members specialising in foreign affairs, defence and EU affairs.
12. COFADS will meet once in every Presidency.
13. Meetings will last no more than one and a half days.
14. Meetings will, as a general rule, be held in Brussels, in the Council building or other suitable premises, or in the Presidency country, but not in the European Parliament.
15. There will be no committees.

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<sup>11</sup> Currently Croatia, the Former Yugoslav Republic of Macedonia (FYROM), Iceland, Montenegro and Turkey.

<sup>12</sup> The WEU Assembly has also been attended by the following: Associates: Albania and Norway (the remaining European NATO Members); Partners: Armenia, Azerbaijan, Bosnia-Herzegovina, Georgia, Moldova, Montenegro, Russia, Serbia, Ukraine (NATO partners); Observers: NATO Assembly, OSCE Assembly. The other non-EU NATO partner countries are Belarus, Kyrgyzstan, Kazakhstan, Switzerland, Tajikistan, Turkmenistan and Uzbekistan.

16. Organisational responsibility will be borne by the parliaments of the troika countries.

17. The parliaments of the troika countries will be responsible for scheduling the meetings, proposing the agenda (in consultation with the High Representative), chairing the meetings and drafting any Conclusions. Brussels-based national parliament representatives will be used to facilitate practical arrangements and share views on draft Conclusions in advance of the meetings.

### **Staffing and administration**

18. Secretariat functions will be performed by staff from the troika country parliaments, with support from the permanent member of the COSAC Secretariat and national parliament representatives in Brussels.<sup>13</sup>

19. The secretariat may engage temporary specialist support to aid in drafting conclusions or providing written briefing or background information in advance of debates.

20. Translation and interpretation costs will be kept to a minimum, by adopting aspects of the regime used by the Speakers' Conference.<sup>14</sup>

21. Costs (other than delegate accommodation, and base language interpreters as per the previous point) will be borne by the troika country parliaments.

22. Neither staff support nor funding will be sought from the European Parliament.

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<sup>13</sup> The COSAC Secretariat consists of one person from each troika parliament, one person from the European Parliament and the permanent member (who is funded by national parliaments).

<sup>14</sup> During the meetings of the Conference, simultaneous interpretation is provided from and into official EU languages upon request according to the following:

The technical facilities for the interpretation are provided and covered by the presiding parliament.

Other practicalities, including languages to be used as base languages for translation, are defined and organised by the presiding parliament.

Parliaments are entitled to bring their own interpreters. Those not bringing their own interpreters may request the presiding parliament to provide interpreters for them at their own cost.

All parliaments choosing to use the languages provided by the presiding parliament share equally the cost of interpreters for all these languages.

Written papers are circulated in French and English. A translation into other languages may be provided by the parliament concerned.

## APPENDIX 2: CORRESPONDENCE

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### *Letter to the Chair of the House of Commons European Scrutiny Committee from David Lidington MP, Minister for Europe*

Michael Connarty MP, Chair of the European Scrutiny Committee of the last Parliament, wrote to the former Foreign Secretary, David Miliband, on 30 March about the Western European Union (WEU). Unfortunately, Mr Connarty's letter did not reach the FCO until shortly before dissolution. This, added to the General Election and change of Government, has led to a delay in replying to Mr Connarty's letter.

This Government attaches significant importance to the issue of parliamentary scrutiny of the EU's Common Security and Defence Policy (CSDP). As you know, the UK and all nine other Western European Union members announced on 31 March 2010 their intention to close the WEU by June 2011. We can use this time to have a period of reflection on the future of cross-European parliamentary debate on European defence issues, currently performed by the WEU Assembly. We see a value in collective debate and any future forum could potentially play a useful role for exchange of information on CSDP issues.

The intergovernmental nature of CSDP is fundamental. I therefore believe in the primacy of national parliamentary scrutiny of CSDP, as performed by your and other Committees. This can be usefully informed by contacts between parliamentarians from all EU Member States but I do not believe it should involve any expansion of the European Parliament's competence. It would also be preferable to include parliamentarians from non-EU European NATO allies and EU candidate countries in any future forum given the important role that they play in CSDP and the key partnership between the EU and NATO on security matters.

One of the prime drivers behind Member States' decision to wind up the WEU was its poor cost effectiveness. Inter-parliamentary structures in Europe are in general funded by the parliaments themselves. But regardless of future funding arrangements, there will be clear pressures in current times to keep the mechanism of providing for inter-parliamentary dialogue on CSDP to the minimum cost and bureaucracy possible.

The FCO is happy to facilitate debate on this issue. I have therefore attached a non-paper (*not printed*) which puts forward a wide range of options for the future of European-level inter-parliamentary dialogue on CSDP. We offer these options as a basis for consultation with you and other interested parliamentarians. I would welcome your views.

I am copying this letter and non-paper to the Chairs of the House of Lords European Committee, the Foreign Affairs Committee and Robert Walter MP for their views.

*15 July 2010*

### *E-mail to the Chair of the House of Commons Foreign Affairs Committee from Robert Walter MP, President of the WEU Assembly*

As you know I never received an invitation to your meeting on 16 November. I was actually on my way back from Paris at the time where I had been dealing with some of the consequences of the closing of the WEU next year, but had I known about the meeting I would have been there.

I have been sent a copy of the minutes of your meeting with a request that I send any comments to you.

I have three specific observations on your discussion:

- (1) There should be a small specialist secretariat who would monitor the activities of the relevant institutions, inform the agenda and advise members of the conference.
- (2) The High Representative should be asked to publish an annual report of the activities of the Council in the field of Common Foreign and Security Policy. This is already a provision for the European Parliament, and would follow from the existing annual report of the Council to the Assembly of the WEU.
- (3) Whilst you suggest that there should be no committees, the conference should from time to time be able to set up *ad hoc* groups to study specific aspects of CFSP.

Additionally with regard to costs it is worth bearing in mind that the original Standing Conference model that was proposed by the WEU Assembly would have a total secretariat cost payable by national Parliaments of approximately €1 million, divided between the 27. This is less than the cost to national Parliaments of either the NATO Parliamentary Assembly or the OSCE Assembly, neither of which have a specific scrutiny role.

I hope this is helpful.

If you are in discussion with the Backbench Business Committee about a possible date for debate could I request that you avoid the week of 24 January when the entire Assembly delegation will be away in Strasbourg.

*24 November 2010*

*Letter to Lord Roper, Chairman of the Select Committee on the European Union, from David Lidington MP, Minister for Europe*

Thank you for your positive and proactive engagement in our recent meetings on how inter-parliamentary oversight of the EU Common Security and Defence Policy (CSDP) should be structured once the Western European Union Assembly is wound up.

I welcome your draft constitution and judge it provides a good basis for parliamentary discussion. In particular, I support your proposals that the new structure should add value to national scrutiny systems and that costs are borne by the “troika” parliaments. I also welcome that third states, such as EU candidate countries, will have a standing invitation. Given their important and valuable role in CSDP and the key partnership between the EU and NATO on security matters, I strongly believe that other countries—notably Norway—but also other non-EU European NATO members should be invited as a matter of course.

The date for closing the WEU Assembly, 30 June 2011, is fast approaching. I believe we share concerns that the European Parliament’s influence may increase if there are no arrangements for inter-parliamentary debate in place by then. I therefore urge that the necessary arrangements between EU national parliaments and the European Parliament to decide on the new body be taken forward as a matter of some urgency, especially considering the potential difficulty in reaching an agreed arrangement at 27 plus the European Parliament. Understanding that it is for parliaments to drive this process, I am happy to consider ways I could expedite this process.

I am copying this letter to William Cash MP (Chair of the House of Commons European Scrutiny Committee), the Foreign Affairs Committee, the Defence Committee, Robert Walter MP, Alistair Doherty (Clerk to the Commons Committee), Les Saunders (Cabinet Office), Sarah Winter (Departmental

Scrutiny Coordinator), Richard Everingham and David Beeney (Select Committee Liaison Officers).

*29 November 2010*

*Letter to the Chair of the House of Commons Foreign Affairs Committee from Mr William Cash MP, Chair of the House of Commons European Scrutiny Committee*

I am grateful to you for taking the lead on drawing up a draft set of arrangements for adoption by the House as the basis for discussion at the April Speakers' Conference on successor arrangements for the WEU parliamentary assembly.

The matter was discussed by the European Scrutiny Committee at its meeting on 8 September and meetings have since taken place between parliamentary stakeholders and the Minister for Europe. During the course of those discussions a consensus emerged, based on the fundamentally intergovernmental nature of defence and security, that:

—New arrangements should be founded on Article 10 of Protocol 1 to the Treaties, and should include members of European affairs committees;

—New arrangements should not provide an entrée for a new institution;

—Doing nothing was an option; but, if national parliaments left a vacuum, the European Parliament would move to fill it;

—New arrangements should aim primarily not at “direct effect”, such as scrutiny reports and resolutions, but at the “indirect effect” of helping national parliamentarians to be better informed, in order to perform scrutiny of their own governments more effectively; and

—Secretariat arrangements might need a degree of continuity, between six-monthly meetings. This might involve the use of the COSAC Secretariat. Cost was an important consideration.

Discussion of the issue at the recent Brussels COSAC meeting demonstrated general agreement that new arrangements should build on existing structures and expertise, add value, be cost-effective and be open to third countries. The UK delegation succeeded in ensuring that the COSAC Contribution was amended to reflect these factors.

The European Scrutiny Committee therefore endorses the proposals which you have sent to me, and which were agreed informally by the Chairmen of the Foreign Affairs Committee, Defence Committee, and the European Scrutiny Committee of the House of Commons, together with the Lords European Union Committee.

I am copying this letter to Lord Roper and Andrew Makower in the House of Lords; to James Arbuthnot MP and Robert Walter MP; and to Les Saunders of the Cabinet Office.

*15 December 2010*

*Letter to the Chair of the House of Commons Foreign Affairs Committee from Rt Hon James Arbuthnot MP, Chair of the House of Commons Defence Committee*

I can confirm that I am content with the proposal for post-WEU scrutiny which we have agreed informally with Mr Cash and Lords Roper and Teverson and which I understand the Foreign Affairs Committee is going to be setting out in a Report.

I am grateful for the work you have put into this.

*11 January 2011*