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REPORT

on the EU's mutual defence and solidarity clauses: political and operational dimensions
(2012/2223(INI))

Committee on Foreign Affairs

Rapporteur: Ioan Mircea Paşcu

Rapporteur for the opinion (*):
Andrew Duff, Committee on Constitutional Affairs

(*) Associated committee – Rule 50 of the Rules of Procedure

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(*) Associated committee – Rule 50 of the Rules of Procedure

MOTION FOR A EUROPEAN PARLIAMENT RESOLUTION

on the EU's mutual defence and solidarity clauses: political and operational dimensions

(2012/2223(INI))

The European Parliament,

- having regard to Article 42(7) of the Treaty on European Union (TEU) and to Article 222 of the Treaty on the Functioning of the European Union (TFEU),
- having regard to Articles 24 and 42(2) TEU, Articles 122 and 196 TFEU and Declaration 37 on Article 222 TFEU,
- having regard to the Charter of the United Nations, and in particular to the provisions of its Chapter VII and Article 51,
- having regard to the European Security Strategy adopted by the European Council on 12 December 2003, and to the report on its implementation endorsed by the European Council on 11-12 December 2008,
- having regard to the Internal Security Strategy for the European Union endorsed by the European Council on 25-26 March 2010,
- having regard to the European Union Counter-Terrorism Strategy adopted by the European Council on 15-16 December 2005,
- having regard to Articles 4 and 5 of the North Atlantic Treaty,
- having regard to the Strategic Concept for the Defence and Security of the Members of the North Atlantic Treaty Organisation, adopted at the NATO Summit in Lisbon on 19-20 November 2010,
- having regard to the decision to dissolve the Western European Union,
- having regard to the Council conclusions of 30 November 2009 on a Community framework on disaster prevention within the EU,
- having regard to the Commission communication of 26 October 2010 entitled ‘Towards a stronger European disaster response: the role of civil protection and humanitarian assistance’ (COM(2010)0600),
- having regard to the Commission communication of 22 November 2010 entitled ‘The EU Internal Security Strategy in Action: Five steps towards a more secure Europe’ (COM(2010)0673),

- having regard to the concept note on ‘Arrangements for Crisis Coordination at EU political level’ endorsed by COREPER on 30 May 2012¹,
 - having regard to its resolutions of 22 May 2012 on the European Union’s Internal Security Strategy², of 14 December 2011 on the impact of the financial crisis on the defence sector in the EU Member States³, of 27 September 2011 on ‘Towards a stronger European disaster response: the role of civil protection and humanitarian assistance’⁴, and of 23 November 2010 on civilian-military cooperation and the development of civilian-military capabilities⁵,
 - having regard to the 2009 EU CBRN Action Plan⁶ and to its resolution of 2 December 2010 on strengthening chemical, biological, radiological and nuclear security in the European Union - an EU CBRN Action Plan⁷,
 - having regard to Rule 48 of its Rules of Procedure,
 - having regard to the report of the Committee on Foreign Affairs and the opinions of the Committee on Constitutional Affairs and of the Committee on Civil Liberties, Justice and Home Affairs (A7-0356/2012),
- A. whereas the security of EU Member States is indivisible and all European citizens should have the same security guarantees and an equal level of protection against both traditional and non-conventional threats; whereas the defence of peace, security, democracy, human rights, the rule of law and freedom in Europe, which are indispensable for the wellbeing of our peoples, must remain a core goal and responsibility of European countries and of the Union;
- B. whereas the current security challenges include numerous complex and changing risks, such as international terrorism, the proliferation of weapons of mass destruction (WMD), states in disintegration, frozen and unending conflicts, organised crime, cyberthreats, the scarcity of energy sources, environmental deterioration and associated security risks, natural and man-made disasters, pandemics and various others;
- C. whereas the EU recognises an international order founded on effective multilateralism on the basis of international law, and this is an expression of Europeans’ conviction that no nation can face the new threats on its own;
- D. whereas security and combating international terrorism are considered as a priority for the EU; whereas a joint response and a common strategy are needed from all Member States;

¹ 10207/12.

² Texts adopted, P7_TA(2012)0207.

³ Texts adopted, P7_TA(2011)0574.

⁴ Texts adopted, P7_TA(2011)0404.

⁵ Texts adopted, P7_TA(2010)0419.

⁶ Council conclusions of 12 November 2009, 15505/1/09 REV.

⁷ Texts adopted, P7_TA(2010)0467.

- E. whereas in recent decades natural and man-made disasters, and in particular climate-driven disasters, have increased in frequency and scale, and a further increase is expected with the aggravation of climate change;
- F. whereas the progressive framing of a common defence policy which aims at a common defence is reinforcing the European identity and the strategic autonomy of the EU; whereas, at the same time, a stronger and more capable European defence is essential for consolidating the transatlantic link, in a context of structural geostrategic changes accelerated by the global economic crisis, and in particular at a time of ongoing US strategic repositioning towards Asia-Pacific;
- G. whereas the 21 EU Member States which are also members of NATO may consult each other whenever their territorial integrity, political independence or security is threatened, and are in any case committed to collective defence in the event of an armed attack;
- H. whereas, while Member States retain the primary responsibility for the management of crises within their territory, serious and complex security threats, from armed attacks to terrorism to natural or CBRN disasters to cyberattacks, increasingly have a crossborder nature and may easily overwhelm the capacities of any single Member State, making it vital to provide for binding solidarity among Member States and for coordinated response to such threats;
- I. whereas the Treaty of Lisbon introduced Article 42(7) TEU (‘mutual defence clause’ or ‘mutual assistance clause’¹) and Article 222 TFEU (‘solidarity clause’) to address such concerns, but almost three years after the treaty entered into force there are still no implementation arrangements to bring these clauses to life;

General considerations

1. Urges the Member States, the Commission and the Vice-President/High Representative to make full use of the potential of all relevant Treaty provisions, and in particular the mutual defence clause and the solidarity clause, in order to provide all European citizens with the same security guarantees against both traditional and non-conventional threats, based on the principles of indivisibility of security and of mutual solidarity among Member States, and taking into account the need for increased cost efficiency and a fair burden-sharing and division of costs;
2. Reiterates the need for the Member States and the Union to develop a policy anchored in prevention, preparedness and response with respect to all major security threats, notably as identified in the European Security Strategy, the Internal Security Strategy and the regular reports of the EU Counter-terrorism Coordinator to the Council;

¹ Hereinafter referred to as the ‘mutual defence clause’, although no name is given to the clause in ‘the Treaty. Cf., in particular, the mutual defence commitment contained in Article V of the Modified Brussels Treaty, which its signatories consider covered by Article 42(7) TEU (Statement of the Presidency of the Permanent Council of the WEU of 31 March 2010).

3. Stresses the need for the Member States and the Union to perform regular joint threat and risk assessments, based on the joint analysis of shared intelligence and making full use of existing structures within the EU;
4. Notes the new strategic concept of NATO which, in addition to maintaining its role as a military alliance, aims to build up its capacity to act as a political and security community, working in partnership with the EU; notes the complementarities existing between NATO's goals and those laid down in Article 43 TEU; warns, therefore, against the costly duplication of effort between the two organisations and the consequent waste of resources, and urges much closer and more regular political collaboration between the EU High Representative and the Secretary-General of NATO for the purposes of risk assessment, resource management, policy planning and the execution of operations, both civil and military;
5. While reaffirming that the protection of territorial integrity and of the citizens remains at the core of defence policy, urges the Council to emulate the approach of NATO, which caters for the inevitable circumstances where preventing external threats is required in order to promote the security interests of the allies and the projection of force is needed;
6. Reaffirms that the use of force by the EU or its Member States is only admissible if legally justified on the basis of the UN Charter; underlines, in this context, the inherent right of individual or collective self-defence; reiterates its attachment to respect for the Oslo Guidelines on the use of foreign military and civil defence assets in disaster relief; emphasises that the prevention of conflicts, attacks and disasters is preferable to dealing with their consequences;
7. Points out the wide array of instruments available to the Union and the Member States for facing exceptional occurrences in a spirit of solidarity; recalls the utility of the legal bases of Article 122 TFEU for economic and financial assistance to Member States in severe difficulties, and of Article 196 TFEU for measures in the field of civil protection;
8. Recalls the commitment to systematically develop mutual political solidarity in foreign and security policy in accordance with Article 24 TEU; notes the possibilities provided by the Treaty of Lisbon for enhanced cooperation in CFSP, including the consignment of specific tasks and missions to clusters of states, as well as the concept of permanent structured cooperation in military matters;
9. Stresses that the purpose of the mutual defence and solidarity clauses is not to replace any of these instruments, but to provide an umbrella framework in view of situations of extraordinary threat or damage, and in particular when response will require high-level political coordination and the involvement of the military, in accordance with the principles of necessity and proportionality;
10. Calls on the Commission and the Vice-President/High Representative, before the end of 2012, to make their joint proposal for a Council Decision defining the arrangements for the implementation of the solidarity clause according to the provisions of Article 222(3) TFEU, clarifying in particular the roles and competences of the different actors; calls, in the interest of coherence, for the Political and Security Committee and the Standing Committee on Internal Security to submit a joint opinion on the implementation of the

solidarity clause, taking into account the political and operational dimensions of both clauses, including liaison with NATO; notes that the Council should act by qualified majority voting concerning non-military aspects of mutual aid and assistance; underlines the necessity, in this context, of keeping Parliament fully informed;

Mutual defence clause

– *Scope*

11. Reminds the Member States of their unequivocal obligation of aid and assistance by all the means in their power if a Member State is the victim of armed aggression on its territory; stresses that, while large-scale aggression against a Member State appears improbable in the foreseeable future, both traditional territorial defence and defence against new threats need to remain high on the agenda; recalls also that the Treaty stipulates that commitments and cooperation in the area of mutual defence shall be consistent with commitments under NATO, which, for those states which are members of it, remains the foundation of their collective defence and the forum for its implementation;
12. Points out, at the same time and as being equally important, the need to be prepared for situations involving non-NATO EU Member States or EU Member States' territories that are outside the North Atlantic area and are therefore not covered by the Washington Treaty, or situations where no agreement on collective action has been reached within NATO ; also, in this connection, stresses the need to be able to use NATO's capabilities as foreseen in the Berlin Plus agreement;
13. Takes the view that even non-armed attacks, for instance cyberattacks against critical infrastructure, that are launched with the aim of causing severe damage and disruption to a Member State and are identified as coming from an external entity could qualify for being covered by the clause, if the Member State's security is significantly threatened by its consequences, while fully respecting the principle of proportionality;

– *Capacities*

14. Emphasises the need for European countries to possess credible military capabilities; encourages Member States to step up their efforts in terms of collaborative military capability development, notably through the complementary 'Pooling and Sharing' and 'Smart Defence' initiatives of the EU and NATO, which represent a critically important way ahead in times of restrained defence budgets, privileging European and regional synergies rather than a short-sighted national approach; in this context, repeats its call for the work of the European Defence Agency to be fully made use of and taken into account by national defence ministries, and encourages the Member States and the EEAS to continue the debate with a view to establishing the permanent structured cooperation foreseen in the Treaty of Lisbon;
15. Considers that, in order to consolidate their cooperation, both NATO and the EU should concentrate on strengthening their basic capabilities, improving interoperability, and coordinating their doctrines, planning, technologies, equipment and training methods;

16. Reiterates its call for the systematic harmonisation of military requirements and for a harmonised EU defence planning and acquisition process, matching up to the Union's level of ambition and coordinated with the NATO Defence Planning Process; taking into account the increased level of security guarantees provided by the mutual defence clause, encourages the Member States to consider multinational cooperation in the area of capability development, and, where appropriate, specialisation, as core principles of their defence planning;

– *Structures and procedures*

17. Invites the Vice-President/High Representative to propose practical arrangements and guidelines for ensuring an effective response in the event that a Member State invokes the mutual defence clause, as well as an analysis of the role of the EU institutions should that clause be invoked; takes the view that the obligation to provide aid and assistance, expressing political solidarity among Member States, should ensure a rapid decision in Council in support of the Member State under attack; considers that consultations in line with the requirement of Article 32 TEU would serve this purpose, without prejudice to the right of each Member State to provide for its self-defence in the meantime;

18. Takes the view that, where collective action is taken to defend a Member State under attack, it should be possible to make use of existing EU crisis management structures where appropriate, and in particular that the possibility of activating an EU Operational Headquarters should be envisaged; stresses that a fully-fledged permanent EU Operational Headquarters is needed to ensure an adequate level of preparedness and rapidity of response, and reiterates its call on the Member States to establish such a permanent capacity, building on the recently activated EU Operations Centre;

Solidarity clause

– *Scope*

19. Recalls that, if a Member State is the victim of a terrorist attack or of a natural or man-made disaster, the Union and the Member States have an obligation to act jointly in a spirit of solidarity to assist it, at the request of its political authorities, and that the Union shall in such cases mobilise all the instruments at its disposal, including the military resources made available by the Member States; recalls also the Union's obligation to mobilise all the instruments at its disposal to prevent terrorist threats in the EU and to protect democratic institutions and the civilian population from any terrorist attack;

20. Calls for an adequate balance between flexibility and consistency as regards the types of attacks and disasters for which the clause may be triggered, so as to ensure that no significant threats, such as attacks in cyberspace, pandemics, or energy shortages, are overlooked; notes that the clause could also cover serious incidents occurring outside the Union having a direct and substantial impact on a Member State;

21. Stresses the need for Member States to invest in their own security and disaster response capabilities and not to excessively rely on the solidarity of others; emphasises the primary responsibility of Member States for civil protection and security in their territory;

22. Takes the view that the solidarity clause should be invoked in situations that overwhelm the response capacities of the affected Member State or require a multisector response involving a number of actors, but that once a Member State has decided to invoke the clause, it should not be a matter for debate for the others to offer assistance; stresses that solidarity also entails an obligation to invest in adequate national and European capabilities;
 23. Considers that the solidarity clause can provide the impetus for enhancing the EU's leverage among European citizens, offering tangible evidence of the benefits of increased EU cooperation in terms of crisis management and disaster response capabilities;
- *Capacities and resources*
24. Stresses that the implementation of the solidarity clause should form an integral part of a permanent EU crisis response, crisis management and crisis coordination system, building on the existing sectoral instruments and capabilities and providing for their effective mobilisation in order to deliver a coordinated multisector response when needed; stresses that, in principle, implementation should not lead to the creation of ad hoc tools;
 25. Points out the fundamental role of the Civil Protection Mechanism as a key solidarity-based instrument for European rapid response to a wide spectrum of crises; supports the broad lines of the Commission's proposal to strengthen the mechanism¹, building on the 2010 Commission communication 'Towards a stronger European disaster response' and drawing inspiration from the 2006 Barnier report;
 26. Notes the ongoing work to implement the Internal Security Strategy, in particular in the areas of counterterrorism, the fight against cybercrime and increasing resilience to crises and disasters; stresses that the implementation of the solidarity clause is not only a matter of setting up procedures for the moment a major crisis happens, but is fundamentally about capacity-building, prevention and preparedness; recalls the relevance of crisis management exercises, tailored for specific contingencies covered by the clause;
 27. Notes that the creation of a voluntary pool of pre-committed civil protection assets would greatly improve EU preparedness and make it possible to identify existing gaps to be addressed; emphasises the importance of joint gap analyses to focus everyone's efforts efficiently and to make sure that each Member State contributes its fair share;
 28. Considers that, in the case of high-cost assets, in particular those for lower-probability risks, it makes sound economic sense for Member States to identify solutions for the common investment in and joint development of such necessary tools, especially in the current context of the financial crisis; in the light of this, recalls the need to build on the expertise and experience of both the Commission and the European Defence Agency, as well as of other EU agencies;
 29. Highlights the importance of ensuring that solidarity is underpinned by adequate EU-level funding mechanisms offering a sufficient degree of flexibility in emergencies; welcomes

¹ See: Proposal for a Decision of the European Parliament and of the Council on a Union Civil Protection Mechanism (COM(2011)0934).

the proposed increased level of cofinancing under the Civil Protection Mechanism, in particular for transport costs; notes the provisions for emergency assistance under the proposed Internal Security Fund;

30. Recalls that the Solidarity Fund can provide financial assistance after a major disaster; recalls also that further Union financial assistance may be granted by the Council pursuant to Article 122(2) TEU, when a Member State is in difficulties or is seriously threatened with severe difficulties caused by natural disasters or exceptional occurrences beyond its control;
31. Recalls that, under the provisions of Article 122(1) TEU, the Council may decide on measures to address a difficult economic situation in a spirit of solidarity, in particular if severe difficulties arise in the supply of certain products, notably in the area of energy; stresses the importance of seeing this provision as part of a comprehensive Union solidarity toolbox for addressing new major security challenges, such as those in the area of energy security and security of supply of other critical products, especially in cases of politically motivated blockades;

– *Structures and procedures*

32. Stresses that the EU needs to possess capable crisis response structures with 24/7 monitoring and response capacity, able to provide early warning and up-to-date situation awareness to all relevant actors; notes the existence of a multitude of EU-level monitoring centres, and that this raises questions of efficient coordination in the event of complex, multidimensional crises; notes the establishment of the Situation Room within the European External Action Service, as well as the existence of a number of sectoral monitoring centres within Commission departments and specialised EU bodies; draws attention, in particular, to the Monitoring and Information Centre of DG ECHO, the Strategic Analysis and Response Capability of DG HOME, the Health Emergency Operations Facility of DG SANCO, and the situation room of Frontex;
33. Reiterates the need to avoid unnecessary duplication and to ensure coherence and effective coordination in action, all the more so given the current scarcity of resources; notes the different schools of thought as to the way of rationalising these multiple monitoring capacities, some based on the idea of a central ‘one-stop shop’, and others favouring better interlinking of the specialised facilities;
34. Takes the view that the wide array of potential crises, from floods to CBRN attacks or disasters, inevitably requires a wide spectrum of specialised services and networks, the merging of which would not necessarily lead to greater efficiency; considers, at the same time, that all specialised services at EU level should be integrated within a single secured information system, and invites the Commission and the Vice-President/High Representative to work on strengthening the ARGUS internal coordination platform;
35. Highlights the need for political coordination in the Council in cases of severe crises; notes the review of the EU Emergency and Crisis Coordination Arrangements (CCA), and welcomes the agreement within the Council on the new CCA conceptual framework, making use of regular Council procedures, and notably of COREPER, instead of ad hoc structures; stresses that responding at EU political level in a coherent, efficient and timely

way to crises of such a scale and nature requires only one single set of arrangements; considers, therefore, that the new CCA should also support the solidarity clause;

36. Encourages efforts to rationalise and better integrate the plethora of web-based platforms for communication and information-sharing on emergencies, including the CCA webpage, ARGUS, the Common Emergency Communication and Information System (CECIS) and the Health Emergency & Diseases Information System (HEDIS), in order to allow an uninterrupted, free and effective flow of information across sectoral and institutional boundaries; notes the decision taken within the Council to reinforce the CCA webpage in order to use it as the future web platform for crisis situations requiring political coordination at EU level;
37. Urges the development of common situation awareness, which is essential in dealing with major multisector crises, when rapid and comprehensive updates need to be provided to the political authorities; welcomes the focus of the CCA review on developing an Integrated Situational Awareness and Analysis (ISAA) for EU institutions and Member States, and calls on the Council to ensure timely implementation; points out that common situation awareness is hardly possible without a culture of information-sharing, and that the development of such a culture is hardly possible without a clear division of roles;
38. Welcomes the planned upgrade of the Monitoring and Information Centre to create a European Emergency Response Centre, stressing that this should form one of the pillars of the interconnected EU rapid response system; takes the view that the coordination responsibility for multisector crises needs to be established on a case-by-case basis, in accordance with the 'centre of gravity' principle;
39. Points out that, in the current global environment where interdependencies are multiplying, major crises on a scale that would justify the triggering of the solidarity clause are likely to be multidimensional and have an international dimension, with respect to third-country nationals affected by them or to international action needed to respond to them; stresses the important role to be played by the EEAS in such cases;
40. Invites the Member States to enhance their capacities for providing and receiving assistance, as well as to exchange best practices on ways to streamline their national crisis coordination procedures and the interaction of their national crisis coordination centres with the EU; takes the view that the planning and conduct of appropriate EU-wide crisis response exercises, involving national crisis response structures and the appropriate EU structures, should also be considered;
41. Considers it essential to create the necessary procedural and organisational links between relevant Member State services, in order to ensure the proper functioning of the solidarity clause following its activation;
42. Stresses that any decision-making process in Council following a request for assistance under the solidarity clause must not be detrimental to EU reactivity, and that crisis response through the existing mechanisms, such as the Civil Protection Mechanism, must be able to start immediately, irrespective of any such political decision; points out the fact that the use of military assets to support civil protection operations is already possible on operational level without the activation of the solidarity clause, as evidenced by the

successful cooperation between the Commission and the EU Military Staff on past operations in Pakistan or Libya;

43. Highlights the need to detail the democratic procedure to be applied when the solidarity clause is invoked, which should also ensure accountability for decisions taken and include the proper involvement of the national parliaments and of the European Parliament; stresses the importance of preventing any disproportionate use of the clause at the expense of fundamental rights;
44. Notes that the European Parliament and the Council, as the EU legislators and budgetary authorities, should be kept informed of the situation ‘on the ground’ in the case of a disaster or attack that triggers the solidarity clause, as well as of its origins and possible consequences, so that a thorough and unbiased assessment based on up-to-date and concrete information can be carried out for future reference;
45. Recalls that the solidarity clause requires the European Council to regularly assess the threats facing the Union; takes the view that such assessments need to be coordinated with NATO and should be carried out on at least two distinct levels, i.e. on a longer-term basis in the European Council, in a process which should also feed strategic thinking to be reflected in future updates of the European Security Strategy and the Internal Security Strategy, and also through more frequent comprehensive overviews of current threats;
46. Considers that threat assessments must be complemented with risk assessments analysing threats in the light of existing vulnerabilities and thus identifying the most pressing capability gaps to be addressed; recalls that within the implementation of the Internal Security Strategy, the EU should establish by 2014 a coherent risk management policy linking threat and risk assessments to decision-making; recalls also that by the end of 2012 the Commission should prepare, on the basis of national risk analyses, a cross-sectoral overview of the major natural and man-made risks that the EU may face in the future; encourages the Member States to share their national risk assessments and risk management plans, to enable a joint appraisal to be made of the situation;
47. Stresses that the resulting joint multihazard assessments need to use the capacities of the EU Intelligence Analysis Centre, building on shared intelligence and integrating inputs from all EU bodies involved in threat and risk assessment, such as the relevant Commission departments (including DG HOME, DG ECHO and DG SANCO) and Union agencies (Europol, Frontex, the European Centre for Disease Prevention and Control and others);
48. Instructs its President to forward this resolution to the Vice-President/High Representative, the Council, the Commission, the parliaments of the Member States, the NATO Parliamentary Assembly and the Secretary-General of NATO.

MINORITY OPINION

on the report on the EU's mutual defence and solidarity clauses: political and operational dimensions

Committee on Foreign Affairs, Rapporteur: Ioan Mircea Paşcu

Minority Report tabled by GUE/NGL MEPs Sabine Lösing, Willy Meyer

The mutual defence clause (Art. 42(7) TEU) turns the EU into a military alliance; the solidarity clause (Art.222 TFEU) paves the way for military interventions within the EU.

The explicit “obligation” to react “by all means” in case of armed aggression against a member-state, goes beyond NATO's mutual assistance clause since, non-armed attacks shall also be covered.

Within the solidarity clause military support is also demanded in case of terror attacks, natural or man made disasters, which implies military operations within the EU. Cyber attacks, pandemics and energy shortages can also lead to activation of the solidarity clause.

It encourages armament, demands harmonisation and enhanced cooperation with NATO, consistency with commitments under NATO, advocates EUHQ.

We reject it since:

- no clear definition of what falls under solidarity clause; if social unrest/strikes are also considered “man made disasters”
- prefers military to civil measures outside and inside EU, focuses only on EU defence and military solutions
- advocates further militarisation and armament

We demand:

- civil EU, civil conflict resolution, no military assistance obligation neither in - nor outside the EU,
- all activities strictly within UN Charter, International Law,
- strict separation of EU from NATO and of civil and military capabilities

10.10.2012

OPINION OF THE COMMITTEE ON CONSTITUTIONAL AFFAIRS (*)

for the Committee on Foreign Affairs

on the EU's mutual defence and solidarity clauses: political and operational dimensions
(2012/2223(INI))

Rapporteur (*): Andrew Duff

(*) Associated committee – Rule 50 of the Rules of Procedure

SUGGESTIONS

The Committee on Constitutional Affairs calls on the Committee on Foreign Affairs, as the committee responsible, to incorporate the following suggestions in its motion for a resolution:

1. Citation

Motion for a resolution

Amendment

*– having regard to the decision to dissolve
the WEU Assembly;*

2. Citation 6a (new)

Motion for a resolution

Amendment

– having regard to Articles 4 and 5 of the North Atlantic Treaty,

3. Recital B a (new)

Motion for a resolution

Amendment

Ba. whereas security and combating international terrorism are considered as a priority for the EU; whereas a joint response and common strategy are needed from all Member States;

4. Recital C a (new)

Motion for a resolution

Amendment

Ca. whereas the current security challenges include an enormous number of complex and changing risks, such as international terrorism, the proliferation of weapons of mass destruction (WMD), states in disintegration, frozen and unending conflicts, organised crime, cyberthreats, the scarcity of energy sources, environmental deterioration and associated security risks, natural and man-made disasters, pandemics and various others;

5. Recital C b (new)

Motion for a resolution

Amendment

Cb. whereas the EU recognises an international order founded on effective multilateralism on the basis of international law, and that this is an expression of Europeans' conviction that no nation can face the new threats on its own;

6. Paragraph 1

Motion for a resolution

1. Urges the Member States, the Commission and the Vice-President/High Representative to make full use of the potential of all relevant Treaty provisions, and in particular the mutual defence clause and the solidarity clause, in order to provide Europeans with a strong insurance policy against serious security risks, based on increased cost-efficiency and a fair burden sharing and division of costs;

7. Paragraph 2 b (new)

Motion for a resolution

8. Paragraph 4

Motion for a resolution

4. Points out *the wide array of instruments available to the Union and the Member States to face exceptional occurrences in a spirit of solidarity, such as the Civil Protection Mechanism, the Solidarity Fund, and the possibility to grant economic and financial support in cases of severe difficulties, as provided for in Article 122 TFEU; also recalls the commitment to develop mutual political solidarity in foreign and security policy in accordance with Article 24 TEU; stresses*

PE492.839v02-00

Amendment

1. Urges the Member States, the Commission and the Vice-President/High Representative to make full use of the potential of all relevant Treaty provisions, and in particular the mutual defence clause and the solidarity clause, in order to ***ensure the indivisible security of all Member States and guarantee that all European citizens have the same security guarantees and an equal level of protection against both traditional and non-conventional threats, taking into account the need for*** increased cost-efficiency and a fair burden sharing and division of costs;

Amendment

2b. ***While reaffirming that protection of territorial integrity and of the citizens remains at the core of the defence policy,*** urges the Council to emulate the approach of NATO, which caters for the inevitable circumstances where ***preventing external threats*** is required to promote the security interests of the allies ***and the projection of force is needed;***

Amendment

4. Points out ***the need for the EU to develop further a comprehensive approach to address global threats and challenges, drawing on the wide range of instruments at its and the Member States' disposal, including - as the last resort - military means; also recalls the*** commitment to develop mutual political solidarity in foreign and security policy in accordance with Article 24 TEU; stresses that the purpose of the mutual defence and solidarity clauses is not to replace any of

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that the purpose of the mutual defence and solidarity clauses is not to replace any of these instruments, but to complement them in view of situations of extraordinary threat or damage, and in particular when response will require high-level political coordination and the involvement of the military;

these instruments, but to complement them in view of situations of extraordinary threat or damage, and in particular when response will require high-level political coordination and the involvement of the military;

9. Paragraph 6

Motion for a resolution

Amendment

6. Reminds the Member States of their unequivocal obligation of aid and assistance by all the means in their power if a Member State is the victim of armed aggression on its territory; ***stresses that, while large-scale aggression against a Member State appears improbable in the foreseeable future, both traditional territorial defence and defence against new threats need to remain high on the agenda; recalls also that the Treaty stipulates that, for the EU countries that are members of the North Atlantic Treaty Organisation, NATO remains the foundation of their collective defence and the forum for its implementation, and that commitments and cooperation in the area of mutual defence must be*** consistent with commitments under NATO;

6. Reminds the Member States of their unequivocal obligation ***pursuant to Article 42(7) TEU*** of aid and assistance by all the means in their power if a Member State is the victim of armed aggression on its territory; ***recalls*** also that ***the large majority of EU Member States are members of NATO and that, accordingly, the Union's common security and defence policy must be compatible and*** consistent with commitments under NATO ***while respecting the autonomy of the EU; takes good note of the specific character of the security and defence policies of those EU states which are not members of NATO, but observes nevertheless that the EU's mutual assistance clause should never be activated without having consulted NATO and sought its engagement;***

10. Paragraph 7

Motion for a resolution

Amendment

7. Points out at the same time the equally important need to prepare for situations involving non-NATO EU Member States or EU Member State territories outside the North Atlantic area, and therefore not covered by the Washington Treaty, or situations where no agreement on collective action is reached within NATO;

7. Points out, at the same time ***and as being equally important, the*** need to prepare for situations involving non-NATO EU Member States or EU Member State territories outside the North Atlantic area, and therefore not covered by the Washington Treaty, or situations where no agreement on collective action is reached within NATO, ***also as to the use of its capabilities as foreseen in the Berlin Plus***

agreement,

11. Paragraph 9

Motion for a resolution

9. Emphasises the importance of deterrence, and therefore the need for European countries to possess credible military capabilities; encourages Member States to step up their efforts on collaborative military capability development, notably through the complementary ‘Pooling and Sharing’ and ‘Smart Defence’ initiatives of the EU and NATO, which represent a critically important way ahead in times of restrained defence budgets;

Amendment

9. Emphasises the importance of deterrence, and therefore the need for European countries to possess credible military capabilities; encourages Member States to step up their efforts on collaborative military capability development, notably through the complementary ‘Pooling and Sharing’ and ‘Smart Defence’ initiatives of the EU and NATO, which represent a critically important way ahead in times of restrained defence budgets; ***in this context, repeats its call for the work of the European Defence Agency to be more fully respected and exploited by national defence ministries; moreover, encourages Member States and the EEAS to continue the debate with a view to establishing the Permanent Structured Cooperation foreseen in the Treaty of Lisbon;***

12. Paragraph 9 a (new)

Motion for a resolution

Amendment

9a. Considers that, in order to consolidate their cooperation, both NATO and the European Union should concentrate on strengthening their basic capabilities, improving interoperability, and coordinating their doctrines, planning, technologies, equipment and training methods;

13. Paragraph 10

Motion for a resolution

Amendment

10. Reiterates its call for systematic harmonisation of military requirements and a harmonised EU defence planning and

10. Reiterates its call for systematic harmonisation of military requirements and a harmonised EU defence planning and

acquisition process, matching up to the EU's level of ambition and coordinated with the NATO Defence Planning Process; taking into account the increased level of security guarantees provided by the mutual defence clause, encourages the Member States to consider multinational cooperation on capability development and, where appropriate, specialisation as core principles of their defence planning;

acquisition process, matching up to the EU's level of ambition and coordinated with the NATO Defence Planning Process; taking into account the increased level of security guarantees provided by the mutual defence clause, encourages the Member States to consider multinational cooperation on capability development and, where appropriate, **geographical and role** specialisation as core principles of their defence planning;

14. Paragraph 15

Motion for a resolution

15. Stresses the need **to prevent any moral hazard, in that some Member States may be tempted to** excessively rely on the solidarity of others **while under-investing in their own security and disaster response capabilities**; emphasises the primary responsibility of Member States for civil protection and security in their territory;

Amendment

15. Stresses the need **for Member States to invest in their own security and disaster response capabilities and not to** excessively rely on the solidarity of others; emphasises the primary responsibility of Member States for civil protection and security in their territory;

15. Paragraph 16

Motion for a resolution

16. Takes the view that the solidarity clause should be invoked in situations that overwhelm the capacities of the affected Member State or require a multi-sector response involving a number of actors; stresses that solidarity also means the obligation to invest in adequate national capabilities;

Amendment

16. Takes the view that the solidarity clause should be invoked in situations that overwhelm the capacities of the affected Member State or require a multi-sector response involving a number of actors; stresses that solidarity also means the obligation to invest in adequate national **and European** capabilities;

16. Paragraph 32

[move paragraph 32 and insert it after paragraph 27]

17. Paragraph 33

Motion for a resolution

33. Invites the Member States to exchange

Amendment

33. Invites the Member States to **enhance**

best practices on ways to streamline their national crisis coordination procedures and the interaction of their national crisis coordination centres with the EU;

*their capacities for providing and receiving assistance, as well as to exchange best practices on ways to streamline their national crisis coordination procedures and the interaction of their national crisis coordination centres with the EU; **takes the view that the planning and conduct of appropriate EU-wide crisis response exercises, involving national crisis response structures and the appropriate EU structures, should also be considered;***

18. Paragraph 33 a (new)

Motion for a resolution

Amendment

33a. Considers that it is essential to establish the necessary procedural and organisational links between relevant services of the Member States, in order to ensure the proper functioning of the solidarity clause following its activation;

19. Paragraph 35

Motion for a resolution

Amendment

35. Recalls that the solidarity clause requires the European Council to regularly assess the threats facing the Union; takes the view that such assessments need to be made at least at two distinct levels: on a more long-term basis in the European Council, in a process which should also feed strategic thinking to be reflected in future updates of the European Security Strategy and the Internal Security Strategy, as well as through more frequent comprehensive overviews of current threats;

35. Recalls that the solidarity clause requires the European Council to regularly assess the threats facing the Union ***and to coordinate this exercise with the NATO partners;*** takes the view that such assessments need to be made at least at two distinct levels: on a more long-term basis in the European Council, in a process which should also feed strategic thinking to be reflected in future updates of the European Security Strategy and the Internal Security Strategy, as well as through more frequent comprehensive overviews of current threats;

RESULT OF FINAL VOTE IN COMMITTEE

Date adopted	9.10.2012
Result of final vote	+ : 14 - : 9 0 : 0
Members present for the final vote	Alfredo Antoniozzi, Andrew Henry William Brons, Carlo Casini, Andrew Duff, Roberto Gualtieri, Enrique Guerrero Salom, Zita Gurmai, Gerald Häfner, Stanimir Ilchev, Constance Le Grip, David Martin, Morten Messerschmidt, Paulo Rangel, Algirdas Saudargas, Indrek Tarand, Rafał Trzaskowski, Manfred Weber, Luis Yáñez-Barnuevo García
Substitute(s) present for the final vote	Zuzana Brzobohatá, Andrea Češková, Marietta Giannakou, Anneli Jäätteenmäki, Vital Moreira, Helmut Scholz, György Schöpflin

15.10.2012

OPINION OF THE COMMITTEE ON CIVIL LIBERTIES, JUSTICE AND HOME AFFAIRS

for the Committee on Foreign Affairs

on the EU's mutual defence and solidarity clauses: political and operational dimensions
(2012/2223(INI))

Rapporteur: Simon Busuttil

SUGGESTIONS

The Committee on Civil Liberties, Justice and Home Affairs calls on the Committee on Foreign Affairs, as the committee responsible, to incorporate the following suggestions in its motion for a resolution:

- A. Whereas the progressive development and fortification of a common defence policy aimed at reinforcing the strategic autonomy of the EU is a primary purpose for the Union;
- B. Whereas Article 222 TFEU ('Solidarity Clause') introduces for the first time a legal obligation on the Union and its Member States to assist one another in case of a terrorist attack or a natural or man-made disaster;
- C. Whereas, while Member States retain the primary responsibility for the management of crises within their territory, disasters increasingly have a cross-border nature and may overwhelm the response capacity of a single Member State and therefore EU action is instrumental in pooling efforts and resources and in coordinating the response;
 - 1. Calls on the Commission and the High Representative for Foreign Affairs and Security Policy to quickly submit a legislative proposal to implement the Solidarity Clause in order to enhance the Union's organisation and efficiency in managing crises, in terms of both prevention and response;
 - 2. Points out the need for monitoring relationships and improving coordination between Member States and between existing instruments as well as identifying gaps and overlaps;
 - 3. Points out that many useful instruments already exist at EU level and that these instruments include the EU's Emergency and Crisis Coordination Arrangements,

European Civil Protection, EEAS Crisis Response and Operational Coordination, EU Intelligence Analysis Centre, the Commission's Strategic Analysis and Response Capability, Europol's First Response Network, CBRN Action Plan, Atlas Network, ARGUS and agencies such as Frontex; notes that the Solidarity Clause should avoid creating new instruments and opt for the coordination, adaptation or strengthening of these instruments for the purposes of preventing and responding to disasters and attacks in accordance with the principles of necessity and proportionality;

4. Calls on the Commission to detail the situations which would trigger the Solidarity Clause, and the democratic procedure for its application, which should also ensure accountability for decisions taken, and include the proper involvement of the national parliaments and the European Parliament; encourages the Commission to outline a fair system laying out how Member States should pool the necessary equipment or resources in the spirit of solidarity should the need arise;
5. Calls on Member States to increase their capacities to respond to the obligations under the Solidarity Clause to 'act jointly' and to 'assist';
6. Underlines that the Solidarity Clause should be triggered under the same structures and procedures envisaged for the mutual defence clause and notes that the Council should take the decision within five days;
7. Calls on the Commission to clearly define disasters and attacks enabling the Solidarity Clause to effectively cover a broad range of situations where solidarity is requested while preventing any disproportionate use that would infringe upon fundamental rights; notes that the Solidarity Clause should also cover serious incidents happening outside the Union with a direct and substantial impact on a Member State;
8. Draws attention to the fact that Article 222 TFEU specifically refers to the prevention of terrorist threats and the protection of society against them and thus recalls the importance of the EU counter terrorism strategy;
9. Believes that the obligation in Article 222 TFEU for the European Council to conduct a regular EU threat assessment is an important component of EU efforts to coordinate the prevention policies; calls on the Commission to come forward with proposals on how best to implement this obligation;
10. Believes that Parliament and the Council, as the EU legislators and budgetary authorities, should be kept informed of the situation on the ground in the case of a disaster or attack that would trigger the Solidarity Clause, as well as of its origins and possible consequences so that a thorough and unbiased assessment based on up-to-date and concrete information can be carried out for future reference.

RESULT OF FINAL VOTE IN COMMITTEE

Date adopted	11.10.2012
Result of final vote	+: 33 -: 3 0: 4
Members present for the final vote	Jan Philipp Albrecht, Roberta Angelilli, Rita Borsellino, Emine Bozkurt, Arkadiusz Tomasz Bratkowski, Simon Busuttil, Carlos Coelho, Ioan Enciu, Frank Engel, Cornelia Ernst, Tanja Fajon, Monika Flašíková Beňová, Kinga Gál, Kinga Göncz, Nathalie Griesbeck, Sylvie Guillaume, Anna Hedh, Sophia in 't Veld, Livia Járóka, Juan Fernando López Aguilar, Monica Luisa Macovei, Svetoslav Hristov Malinov, Véronique Mathieu, Nuno Melo, Claude Moraes, Georgios Papanikolaou, Carmen Romero López, Judith Sargentini, Birgit Sippel, Csaba Sógor, Renate Sommer, Nils Torvalds, Wim van de Camp, Axel Voss, Renate Weber, Tatjana Ždanoka, Auke Zijlstra
Substitute(s) present for the final vote	Stanimir Ilchev, Jan Mulder, Siiri Oviir, Marco Scurria
Substitute(s) under Rule 187(2) present for the final vote	Kay Swinburne, Salvatore Tatarella

RESULT OF FINAL VOTE IN COMMITTEE

Date adopted	25.10.2012
Result of final vote	+: 50 -: 8 0: 8
Members present for the final vote	Pino Arlacchi, Elmar Brok, Jerzy Buzek, Tarja Cronberg, Arnaud Danjean, Michael Gahler, Marietta Giannakou, Ana Gomes, Andrzej Grzyb, Anna Ibrisagic, Liisa Jaakonsaari, Anneli Jäätteenmäki, Jelko Kacin, Ioannis Kasoulides, Tunne Kelam, Evgeni Kirilov, Maria Eleni Koppa, Andrey Kovatchev, Eduard Kukan, Vytautas Landsbergis, Ryszard Antoni Legutko, Krzysztof Lisek, Sabine Lösing, Ulrike Lunacek, Mario Mauro, Willy Meyer, María Muñoz De Urquiza, Annemie Neyts-Uyttebroeck, Norica Nicolai, Raimon Obiols, Kristiina Ojuland, Ria Oomen-Ruijten, Justas Vincas Paleckis, Pier Antonio Panzeri, Ioan Mircea Paşcu, Alojz Peterle, Bernd Posselt, Hans-Gert Pöttering, Cristian Dan Preda, Fiorello Provera, Libor Rouček, Tokia Saïfi, José Ignacio Salafranca Sánchez-Neyra, Nikolaos Salavrakos, Jacek Saryusz-Wolski, György Schöpflin, Werner Schulz, Laurence J.A.J. Stassen, Charles Tannock, Inese Vaidere, Geoffrey Van Orden, Kristian Vigenin, Sir Graham Watson, Boris Zala, Karim Zéribi
Substitute(s) present for the final vote	Laima Liucija Andrikiienė, Charalampos Angourakis, Jean-Jacob Bicep, Véronique De Keyser, Andrew Duff, Diogo Feio, Hélène Flautre, Antonio López-Istúriz White, Marietje Schaake, Helmut Scholz, Luis Yáñez-Barnuevo García