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**PARTICIPATION OF TURKEY IN THE EU'S COMMON SECURITY AND
DEFENCE POLICY: KINGMAKER OR TROJAN HORSE?**

Steven Blockmans



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ABSTRACT

The 1999 Helsinki decision of the European Council to grant Turkey candidate country status, the 'Berlin plus' arrangements on EU access to NATO assets, and the 2006 agreement on participation of Turkey in EU crisis management operations seem to have (temporarily) solved the dilemma for Brussels: now the EU can keep channels of communication with Turkey open, gain access to Turkish capabilities, and use effective tools to influence Ankara's policies. But Turkey has stressed its discontent with its status within CSDP, primarily because it wants to be more fully associated with the EU's decisions in areas where it has a strategic interest and could play a key role, for instance in the Middle East and the South Caucasus. In an effort also to pressure on Brussels to push Turkey's pre-accession process forward, Ankara has, on a case-by-case basis, exercised its veto right over the use of NATO's assets by EU crisis management operations. The further development of CSDP is thus, at least in part, linked to progress on Turkey's path to EU accession. This working paper explores the peculiarities of the EU-Turkey power equation through the prism of the institutional and procedural frameworks in CSDP and offers ideas based on the Lisbon Treaty to forge a more strategic partnership between the EU and Turkey.

KEY WORDS

European Union, Common Security and Defence Policy, Enlargement Policy, Turkey, NATO

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1. INTRODUCTION

As the second largest neighbouring state of the European Union, the second largest military force of NATO, and bridge to the Black Sea region, the Middle East and the Muslim world, Turkey occupies a key geostrategic position for the EU.¹ This has been acknowledged by the EU in the historic decision of the Helsinki European Council in December 1999 to grant candidate country status to Turkey.² In its capacity as a candidate country, Turkey has agreed to prioritize the coordination of its foreign and security policies with those of the European Union.³ Yet, the attitude of Ankara towards the development of the EU's own operational capacities in crisis management has been rather unusual for an aspirant Member State expected to sway to the EU's so-called 'soft power'.⁴ While Turkey has actively contributed its 'hard power'⁵ to ESDP operations, it has not been afraid to use a trump card as far as the deployment of the EU's military operations is concerned: its veto power within NATO.

This working paper explores the peculiarities of the EU-Turkey power equation through the prism of the institutional and procedural frameworks in ESDP/CSDP.⁶ The paper will first analyse the frameworks through which Turkey was associated to European security policies prior to the moment that the EU declared its own security and defence policy operational (section 2). It will also present an account of the hard-fought compromise which enables the EU to use NATO 'hardware' to carry out its

¹ See the High Representative's *Report on the Implementation of the European Security Strategy – Providing Security in a Changing World*, doc. 17104/08 (S407/08), 11 December 2008, which describes Turkey as a transit country providing energy security for the Union (at 5) and as belonging to the so-called 'Alliance of Civilisations', with which to cooperate to engage with the neighbourhood (at 11). See also European Commission, *Turkey 2009 Progress Report*, COM(2009) 533, at 87: 'The regular political dialogue between the EU and Turkey continued to cover international issues of common interest, including Iraq, Iran, the South Caucasus, Pakistan, Afghanistan, the Middle-East peace process and the Balkans.' See further P. Khanna, *The Second World: Empires and Influence in the New Global Order* (London, Allen Lane 2008), at 36-44.

² *Bull. EU* 12-1999, point I.12.

³ Council Decision 2008/157/EC of 18 February 2008 on the principles, priorities and conditions contained in the Accession Partnership with the Republic of Turkey and repealing Decision 2006/35/EC, *OJ* 2008 L 51/4, at 14.

⁴ 'Soft power', i.e. the power of attraction, is embodied by the economic leverage and influence accrued to trade and aid, diplomatic cooperation enhanced through treaties, pacts and organizations, and social integration resulting from migration and other forms of cultural exchange. See J. Nye, *Soft Power: The Means to Success in World Politics* (New York, Public Affairs 2004).

⁵ 'Hard power' is understood as the ability to exercise military force, related to forms of intimidation and coercion, or the deepening of military ties and weapons sales.

⁶ With the entry into force of the Lisbon Treaty on 1 December 2009, the '3-Pillar' structure of the EU has disappeared, thus leading to potential confusion in historical accounts of EU policy-making for some of the terms used have no meaning in the post-Lisbon framework. 'EC', for instance, will from now on be the more logical abbreviation for the 'European Commission' instead of the 'European Community'. Likewise, 'CSDP', 'Common Security and Defence Policy', has replaced 'ESDP', 'European Security and Defence Policy'. In this paper, where it is relevant to do so, the terms are employed as legally valid at the time of their usage. The consolidated version of the Treaty on European Union is reproduced in *OJ* 2010 C 83/1.

own military operations (section 3). This legal-political review is crucial because Turkey sees those early frameworks as a benchmark for improving its standing in the EU's current institutional and procedural set-up to plan and carry out crisis management operations (section 5). This set-up, embodied in a bilateral agreement concluded in 2006, and the actual participation of Turkey in ESDP/CSDP are analysed in section 4. The paper then assesses the main strategic and political factors which will determine future EU-Turkey cooperation (section 6) and questions whether the Lisbon Treaty provides ways and means to enhance EU-Turkey security cooperation (section 7). The working paper will be wrapped up with some concluding remarks about Turkey's peculiar role as a candidate country in shaping the EU's role in the world (section 8).

2. TURKEY'S 'ASSOCIATE MEMBER' STATUS IN WEU

Up until that other historic decision of the Helsinki European Council in December 1999, namely the creation of the European Security and Defence Policy (ESDP),⁷ the only active framework for handling specifically European security questions was the Western European Union (WEU, created by the Modified Brussels Treaty of 1954)⁸ and the special partnership of WEU with NATO under the NATO-defined concept of European Security and Defence Identity (ESDI).⁹ At WEU's Rome Ministerial meeting in 1992, the new status of 'associate member' was accorded to states which were members of NATO but not of the EU, i.e. Iceland, Norway and Turkey,¹⁰ and the status of 'observer' was taken up by the non-NATO members of the EU (plus Denmark).¹¹ In 1994, 10 Central European states applying for membership of NATO and the EU became WEU's 'associate partners'.¹²

⁷ Bull. EU 12-1999, Annexes to the Presidency Conclusions, Annex 1 to Annex IV.

⁸ The 1948 Brussels Treaty, as amended by the Protocol modifying and completing the Brussels Treaty, signed at Paris on 23 October 1954, as well as other documents concerning the Western European Union have been printed for the Western European Union by Curzon Press, London, 1969. The WEU Council facilitated the ambition of the EU to establish an ESDP by deciding 'to prepare the WEU legacy and the inclusion of those functions of the WEU, which will be deemed necessary by the EU to fulfil its new responsibilities in the area of crisis-management tasks.' See WEU Council of Ministers, Luxembourg Declaration, 23 November 1999, para. 4.

⁹ See WEU Declaration of 10 December 1991 at Maastricht, reprinted in W. van Eekelen, *Debating European Security, 1948-1998* (The Hague/Brussels, Sdu/CEPS 1998), Annex III. Today, little is heard of a European identity or a pillar within NATO. See W. van Eekelen, *From Words to Deeds: the Continuing Debate on European Security* (Brussels, CEPS/DCAF 2006), at 105.

¹⁰ WEU Council of Ministers, Rome, 20 November 1992, para. 1. After NATO's enlargement, associate membership of the WEU was extended to the Czech Republic, Hungary and Poland. See WEU Council of Ministers, Bremen, 10-11 May 1999, para. 2.

¹¹ For a fuller treatment of the history and activities of the WEU and subsequent developments, see the contributions to A. Deighton and E. Remacle (eds.), *The Western European Union, 1948-1998: From the Brussels Treaty to the Treaty of Amsterdam*, published as 1-2 *Studia Diplomatica* (1998).

¹² See WEU Council of Ministers, Kirchberg Declaration, 9 May 1994, para. 1.

As an associate member, Turkey held a relatively strong status in WEU, certainly stronger than that of the non-NATO observers. According to 1992 Petersberg Declaration of the WEU Council of Ministers, associate members

(...) will have the same rights and responsibilities as the full members for functions transferred to WEU from other fora and institutions to which they already belong; they will have the right to speak but may not block a decision that is the subject of consensus among the member states; they may associate themselves with the decisions taken by member states; they will be able to participate in their implementation unless a majority of the member states, or half of the member states including the Presidency, decide otherwise; they will take part on the same basis as full members in WEU military operations to which they commit forces; (...) [and] they will be asked to make a financial contribution to the Organization's budgets.¹³

The right to speak came with the possibility to propose items for the agenda and to present proposals. 'Full' participation included participation in all working groups apart from the Security Committee, subject to the same rules as for participation in the meetings of the WEU Council and other bodies. With the possibility to participate in decision-shaping, Turkey wielded considerable influence. As the WEU worked by consensus (albeit of the full members), no votes were taken. Associates and observers could not block the consensus but their participation gave them status and the ability to make their views known before a consensus was reached, and thus join in a process of 'security through participation'. Turkey was able to participate, and had *de facto* 'co-decision' rights, in all standing WEU committees except the Security Committee, and it took part (as inter-institutional relationships strengthened in the late 1990's) in all joint WEU-NATO and WEU-EU meetings.¹⁴ It had access to, and in practice contributed to, all WEU operations (which, as it turned out, were non-military in character and limited in scale (e.g. patrolling missions on the Adriatic and the Danube to enforce UN embargoes on the warring parties of ex-Yugoslavia), on the same basis as full members.¹⁵ It could appoint officers to WEU's Military Planning Cell. Turkey (and Norway) also held full membership of the Western European Armaments Group (WEAG), a body linked with WEU but which was essentially the successor of NATO's former Eurogroup. Last but not least, as an associate member, Turkey had extensive and concrete involvement in the activities of the WEU Assembly, the WEU Institute of Security Studies, and the WEU Satellite Centre. It

¹³ See WEU Council of Ministers, Bonn, 19 June 1992, Petersberg Declaration, at 10.

¹⁴ See van Eekelen (1998), *op cit*.

¹⁵ See W. van Eekelen and S. Blockmans, 'European Crisis Management *avant la lettre*', in S. Blockmans (ed.), *The European Union and Crisis Management: Policy and Legal Aspects* (The Hague, T.M.C. Asser Press 2008), 37-52, at 44-50.

should be noted, however, that Turkey never formally expressed itself satisfied with its treatment as an associate member and on various occasions argued that it should have access to the status of full membership.¹⁶

For a number of years, not even a decade, the Western European Union acted as a bridge between the European Union and NATO and was particularly successful in drawing in the non-EU members of NATO (and later also the EU candidate countries) by allowing them full participation in military activities. 'Security through participation' was the slogan of the day and gave the associate members, observers and associate partners a sense of belonging, as well as the opportunity to raise issues affecting their security interests.¹⁷ When the associate *partners* acceded to the EU and became part of CFSP/ESDP, the WEU arrangement was no longer necessary for them.¹⁸ However, the situation deteriorated for the associate *members*, which lost an opportunity for regular contact and involvement with EU security policy-making.¹⁹ Up until today, Turkey, Iceland and Norway continue to attend the WEU Assembly, but this gathering of national parliamentarians has lost much of its importance as there is no longer a WEU Council with which to converse.²⁰

3. HARD POWER VS. SOFT POWER: THE CREATION OF ESDP IN THE CONTEXT OF ENLARGEMENT

3.1. INTRODUCTION

At NATO's Berlin Ministerial meeting of 3-4 June 1996, the Alliance adopted a major document on the development of ESDI and specifically on the NATO-WEU relationship.²¹ The Berlin communiqué elaborated the notion of NATO assets being provided in support of possible European defence operations led by WEU, and foresaw ongoing support by NATO for defence planning (i.e. capabilities), work and

¹⁶ See P. Robins, *Suits and Uniforms: Turkish Foreign Policy Since the Cold War* (London, Hurst & Co. 2003), at 144-145.

¹⁷ See van Eekelen (2006), *op cit.*, at 54.

¹⁸ For more details on the changing relationship between the two international organisations, see R. Wessel, 'The EU as a Black Widow: Devouring the WEU to Give Birth to a European Security and Defence Policy', in V. Kronenberger (ed.), *The European Union and the International Legal Order: Discord or Harmony?* (The Hague, T.M.C. Asser Press 2001), 405-434.

¹⁹ See M. Cebeci, 'A Delicate Process of Participation: The Question of Participation of WEU Associate Members in Decision-Making for EU-led Petersberg Operations, with Special Reference to Turkey', *Occasional Papers* (Brussels, Western European Union 1999).

²⁰ The Lisbon Treaty contains a mutual assistance clause in Article 42(7) new TEU which, although not as strong as Article V of the WEU, removes one of the last arguments for maintaining a WEU skeleton.

²¹ Final Communiqué of the Ministerial Meeting of the North Atlantic Council, Press Communiqué M-NAC-1(96)63, 3 June 1996, para. 7.

generic operational planning in the WEU framework. In the following years, a number of NATO-WEU agreements were drawn up – in all cases with Turkey’s full involvement and approval – to regulate the details of these different aspects of the ESDI partnership.²²

In April 1999, at a time when a clear political drive was emerging for the EU to take over (in one form or another) WEU’s role as a framework for potential European-led operations,²³ NATO’s Washington Summit adopted a communiqué stating:

We acknowledge the resolve of the European Union to have the capacity for autonomous action so that it can take decisions and approve military action where the Alliance as a whole is not engaged (...) NATO and the EU should ensure the development of effective mutual consultation, co-operation and transparency, building on the mechanisms existing between NATO and the WEU. [W]e attach utmost importance to ensuring the fullest possible involvement of non-EU European allies in EU-led crisis response operations, building on existing consultation arrangements within the WEU (...) the concept of using separable but not separate NATO assets and capabilities for WEU-led operations, should be further developed.²⁴

In the Strategic Concept of the Alliance, approved at the same meeting, the Heads of State agreed that NATO should

(...) on a case by case basis and by consensus (...) make its assets and capabilities available for operations in which the Alliance is not engaged militarily under the political control and strategic direction either of the WEU or as otherwise agreed, taking into account the full participation of all European Allies if they were so to choose.²⁵

Against this background NATO held out the prospect of further enhancing, and in particular making more automatic, the various kinds of support developed for WEU

²² For the evolution of ESDI, see ‘Chapter 4: The European Security and Defence Identity (ESDI)’, in *NATO Handbook* (Brussels, NATO Office of Information and Press 2001), 97-103.

²³ See S. Blockmans, ‘An Introduction to the Role of the EU in Crisis Management’, in Blockmans (ed.), *op. cit.*, at 2-3.

²⁴ Washington Summit Communiqué issued by the Heads of State and Government participating in the meeting of the North Atlantic Council in Washington, D.C. on 24th April 1999, Press Release NAC-S(99)64, 24 April 1999, para. 9.

²⁵ NATO, ‘The Alliance’s Strategic Concept’, Doc. 0773-99 (Brussels, NATO Office of Information and Press 1999), para. 30: the standard reference to ESDI (which ‘will continue to be developed within NATO’) appeared a process requiring close cooperation between NATO, the WEU and, if and when appropriate, the EU. The reference was followed by a positive assessment: ‘It will enable all European Allies to make a more coherent and effective contribution to the missions and activities of the Alliance as an expression of our shared responsibilities; it will reinforce the transatlantic partnership (...).’ Para. 58: ‘The detailed practical arrangements that have been developed as part of the ESDI within the Alliance contribute to close allied co-operation without necessary duplication of assets and capabilities.’

since the Berlin Summit of 1996 when WEU's relevant roles were transferred to the EU: this was the proposition that came to be known as 'Berlin plus'.²⁶

3.2. TURKEY'S EXPECTATIONS OF 'BERLIN PLUS'

From the start, Turkey took the view that NATO's different pronouncements on the enhanced cooperation between the Alliance and the European Union had to be considered as a package, and that the realization of 'Berlin plus' was contingent on the Union treating its non-EU Allied partners in a way that NATO had envisaged. According to a press release by the Turkish Ministry of Foreign Affairs, 'NATO Allies at their Summit meeting (...) through the documents accepted therein have *established the basis* which takes into account our expectations for full and equal participation of European Allies who are not, like Turkey, members of the EU, in the new structure to be established within the context of CESDP.'²⁷ Turkey also made clear its expectation that the EU would respect, *mutatis mutandis*, the existing arrangements within the WEU. In essence, Turkey used the phrase 'building on' from the Washington Summit Communiqué as meaning more than the WEU arrangements. Linguistically, Ankara's interpretation made sense, as the words 'building on' suggest something additional to an existing arrangement.²⁸ In practice, however, Turkey's demand was difficult to meet: in the WEU the associate members and partners participated in the regular Council of Ministers, but that would be unlikely in the General Affairs Council of the EU as the Treaty on European Union did not (and still does not) allow non-members to actively participate in regular council meetings. In fact, the Union has devised special bodies for meetings with other countries.

3.3. THE EU'S INTERPRETATION OF 'BERLIN PLUS'

The sensitive issue of the participation of non-EU Member States was taken forward by the Cologne European Council of 3-4 June 1999 with the statement that "all the participants in an EU-led operation will have equal rights in respect of the conduct of that operation, without prejudice to the principle of the EU's decision-making autonomy, notably the right of the Council to discuss and decide matters of principle and policy".²⁹ In the 'Report on Strengthening of the common European policy on

²⁶ See *infra*, section 3.5.

²⁷ As quoted in the fact-sheet 'Turkey and the ESDP' compiled by P. Dunay for SIPRI, ahead of its September 2004 conference in Stockholm.

²⁸ See van Eekelen, (2006), *op. cit.*, at 31-32.

²⁹ *Bull. EU* 6-1999, points 1.59-1.63.

security and defence' annexed to the German Presidency conclusions, non-EU European NATO members were promised satisfactory arrangements to ensure their fullest possible involvement in EU-led operations, 'building on' existing consultation arrangements within the WEU.³⁰ The EU's own proposals for handling the interface – both with NATO as an international organisation and with non-EU partners – were not finalized until the package of documents adopted at the Helsinki European Council of December 1999.³¹ In these, the EU assumed all practical functions of the WEU and prepared to take over the Institute of Security Studies and Satellite Centre, leaving aside only the WEU's Treaty commitment to collective self-defence (Article V of the Modified Brussels Treaty) and the question what to do with the WEAG.³² The EU made clear its wish to take advantage of NATO's 'Berlin plus' offer, while also reserving the possibility of undertaking operations of an entirely 'autonomous' kind without NATO support.

As regards the participation of non-EU states in the EU-15 decision-making process, the Helsinki formula did not offer any form of 'co-decision' but – following a concept first developed at the Feira European Council in June 2000 – envisaged consultation with the non-EU NATO members (then six) in a '15+6' format, and with all (then fifteen) former WEU partners in the format of '15+15': 'Those countries [of both categories] which have confirmed their participation in an EU-led operation by deploying significant military forces, will have the same rights and obligations as the EU participating Member States in the day to day conduct of that operation.'³³ Despite the establishment of the Committee of Contributors, the Council (i.e. the new Political and Security Committee, PSC) would be responsible for the political control and strategic direction of the operation.³⁴ The Feira proposal did not specify how these two bodies would interact. For instance, would all contributing countries participate in the Political and Security Committee when it discussed the strategic direction? Feira was also supposed to give an indication of whether or not the Treaty on European Union should be amended to take account of the new institutions for the new security and defence policy. The legal service of the Council Secretariat was of the opinion that the Presidency Conclusions of Cologne and Helsinki could be implemented without it being legally necessary to amend the treaties, albeit with the following caveat:

³⁰ *Ibid.*, point I.63.

³¹ *Bull. EU* 12-1999, Annexes to the Presidency Conclusions, Annex 1 to Annex IV.

³² See, more generally, S. Duke, 'Peculiarities in the Institutionalisation of CFSP and ESDP', in Blockmans (ed.), *op. cit.*, 75-105.

³³ *Bull. EU* 6-2000, point I.7.9-10, more in particular Annex I, Appendix I, point 20.

³⁴ *Ibid.*, point 21.

[S]uch amendments would be necessary if the intention is to transfer the Council's decision-making powers to a body made up of officials, or to amend the Treaty's provisions regarding the WEU. Furthermore, it is for Member States to determine whether amendments to the Treaty would be politically desirable or operationally appropriate.³⁵

As a result, the Presidency suggested that the issue of treaty revision be examined between the Feira and Nice European Councils.³⁶

Although Turkey was assured 'deep consultation', it was implicit that any views expressed by non-members, up to and including the point when a decision to launch an operation, would not be binding on the EU. All 15 non-EU partners would have the right to seek participation in EU operations, but the EU made a distinction between NATO and non-NATO members by stating that in operations using NATO assets, the non-EU NATO members (former WEU associate members, including Turkey) would participate automatically in preliminary discussions and have the right to contribute 'if they so wish[ed]'. For 'autonomous' operations of the EU, the invitation to participate would be decided by the Council of the European Union on a case-by-case basis, for all partners. Non-EU countries who would contribute assets would have the right to be involved in detailed operational planning and would join a contributors' group where the practical details and conduct of the operation would be settled.

3.4. TURKEY'S REACTION TO THE EU PROPOSAL: CONFRONTATION

Turkey justifiably felt that what was on offer fell short of the status it had enjoyed in the WEU and also of what it had expected and called for since NATO's 'Berlin plus' statement. Of particular concern was the possibility that EU-led operations, which might take place in Turkey's own unstable neighbourhood and impact directly on its strategic interests, would be launched by a group of fifteen states, including Greece and four non-Allied states, in circumstances where Turkey, and indeed NATO as a whole, held no veto.³⁷ NATO's work on potential scenarios pointed to sixteen

³⁵ *Ibid.*, Annex I, sub E.

³⁶ At the insistence of the Netherlands, the EU Treaty was amended at Nice to include a new Article 25 providing a legal basis for the new Political and Security Committee. See R.A. Wessel, 'The State of Affairs in EU Security and Defence Policy: The Breakthrough in the Treaty of Nice', 8 *Journal of Conflict and Security Law* (2003), 265-288.

³⁷ See M. Müftüler-Bac, 'Turkey's Role in the EU's Foreign and Security Policies', 31 *Security Dialogue* (2000), 489-502. For recent updates of similar and ongoing security concerns of Turkey in its immediate neighbourhood, see O. Dursun-Özkanca, 'Turkey: the Potential Impact of EU Membership', in S. Biscop and J. Lembke (eds.), *EU Enlargement and the Transatlantic Alliance: A Security Relationship in Flux*

possible 'hot spots' for deployment of EU rapid reaction forces, and thirteen of those locations were in regions around Turkey.³⁸ In particular, Turkey feared a European military involvement in Cyprus, without it having even been consulted.³⁹

Other important concerns were the fact that Turkey could not take part and speak at Council meetings and at meetings (in normal format) of subordinate committees – notably the EU's new Political and Security Committee (PSC) and Military Committee (EUMC) – where ESDP policies and operations were to be decided; the loss of the provision that Turkey would participate 'on the same basis as full members' in EU-led military operations; its exclusion from the EU Military Staff (EUMS), which succeeded the WEU Planning Cell; the loss of its former status in the EU Institute and Satellite Centre; and the uncertainty over the future of WEAG.⁴⁰ Many of these problems and concerns were, of course, shared by Norway and Iceland and by the latest WEU Associate Members, i.e. the Czech Republic, Hungary and Poland. But these last three countries – as indeed Cyprus – could look forward to full-decision making rights in ESDP as soon as they acceded to the EU. Norway and Iceland, for their part, had deliberately chosen not to exercise the right of EU entry. Turkey's frustration was clearly linked to some extent with the parallel difficulties and delays it was experiencing in the EU's treatment of its own membership application.

As a result of these concerns, Turkey decided in early 2000 to use its decision-making powers in NATO to hold up the conclusion of NATO-EU arrangements to implement 'Berlin plus' until there would be some clarification and improvement of its own position. Turkey wanted assurances on its future participation in the planning of EU-led military operations before agreeing to assured EU access to NATO assets. The country followed a literal interpretation of NATO's Washington Summit Communiqué, which had indicated arrangements 'building on' those existing in the WEU, while in fact Turkey would obtain less than the full participation in the activities. Turkey's formal blockage was to last for almost three years and in practice

(Boulder, Lynne Rienner Publishers 2008), 119-136, at 124-126; and A. Akçakoca, 'Turkish Foreign Policy – between East and West?', *EPC Policy Brief*, October 2009.

³⁸ See S. Yilmaz, 'Turkey and the European Union; a Security Perspective', in G. Gasparini (ed.), *Turkey and European Security* (Rome, IAI-TESEV 2007), 51-64, at 60. The hot-spots include Cyprus (TRNC), Georgia (Abkhazia, South-Ossetia), Iran, Iraq (Kurdistan), Israel, the Palestinian territories, Kosovo, Lebanon, Nagorno-Karabakh (Armenia-Azerbaijan).

³⁹ In the judgment of B. Park, 'The EU and Turkey: Bridge or Barrier?', in D. Brown and A. Shepherd (eds.), *The Security Dimensions of EU Enlargement: Wider Europe, Weaker Europe?* (Manchester, Manchester University Press 2007), 157-173, at 161: 'The affair offered an indication of Ankara's perennial mistrust of its European allies'.

⁴⁰ See H. Krenzler and M. Vachudova, 'The European Defense and Security Policy and EU Enlargement to Eastern Europe', *RSCAS Policy Paper* 01/1 (Florence, EUI 2001), at 11-14; N. Tocci and M. Houben, 'Accommodating Turkey in ESDP', *CEPS Policy Brief* No. 5 (Brussels, CEPS 2001); and R. Gözen, *Turkey's Delicate Position between NATO and the ESDP* (Ankara, Center for Strategic Research 2003), available at < <http://www.sam.gov.tr/sampapers.php>>.

delayed the first deployment of EU-led military operations with NATO 'hardware' support,⁴¹ although it did not prevent the Union to proceed with the build-up of its own ESDP structures and capabilities. Continuous efforts were made by the NATO Secretary-General, the EU's High Representative for CFSP, and a group of concerned Member States to clear the way for a solution, and a number of possible formulas (addressing Turkey's need for reassurance over operations affecting its national and regional security interests, as well as issues of its own participation) were developed at quite an early date. The difficulty lay, however, in finding a settlement that would be acceptable in detail both to Ankara and Athens, as well as respecting both NATO's and the EU's formal principles.

3.5. BREAKTHROUGH: COOPERATION

Thanks to the persistent efforts of Washington and London a compromise was finally found and laid down in the 'Ankara document' of December 2001.⁴² An important Turkish demand was a statement that the ESDP would not be used against a NATO ally. As such, this was nothing new. The impossibility of invoking NATO or the EU against a member of the other organization had been agreed in the WEU Council of Ministers meetings of 1991-2, when Greece was invited to join.⁴³ Still, the situation was different for the European Union as the EU Treaty did not include the automatic military assistance clause of Article V of the WEU Treaty.⁴⁴ More difficult was Ankara's demand for participation in the EU decision-making. Here, the WEU provisions could not be taken as a precedent, as the 'full participation in the activities' of the associate members did not cover the unqualified right to participate in the implementation of decisions taken by the Member States.⁴⁵

The December 2001 compromise text stated that in case of an operation in the vicinity of a non-EU NATO member or touching on the security interests of that country, the non-EU ally would be consulted before the Council of the EU would take

⁴¹ Willem van Eekelen has observed that the absence of progress raised the question of whether we could still talk of a European 'Identity' within NATO. See van Eekelen (2006), *op. cit.*, at 62.

⁴² See O. Öymen, 'The Future of European Security and NATO', paper delivered at the Twelfth International Antalya Conference on Security and Cooperation, 11-15 April 2002.

⁴³ See WEU Declaration of 10 December 1991 at Maastricht, reprinted in van Eekelen (1998), *op. cit.*, Annex III; WEU Council of Ministers, Bonn, 19 June 1992, Petersberg Declaration; and WEU Council of Ministers, Rome, 20 November 1992.

⁴⁴ As noted before, this has changed with the entry into force of the Lisbon Treaty. Art. 42(7) TEU states: 'If a Member State is the victim of armed aggression on its territory, the other Member States shall have towards it an obligation of aid and assistance by all the means in their power, in accordance with Article 51 of the United Nations Charter. This shall not prejudice the specific character of the security and defence policy of certain Member States.'

⁴⁵ See van Eekelen (1998), *op. cit.*, at 126 and Chapter 6. In principle, this participation would be possible, unless a majority of the Member States, or half the Member States including the Presidency would decide otherwise.

a decision on issuing an invitation to participate.⁴⁶ Turkey agreed to this formula, but Greece had problems digesting it and needed time for reflection. As a result, the Turkish issue lingered on.⁴⁷

The final breakthrough came at the end of 2002 in the multifaceted context of (i) significant movement in Turkey's general relationship with the European Union;⁴⁸ (ii) increasing pressure for the EU to be in a position to start taking over peace operations in the Balkans region from NATO;⁴⁹ and (iii) a shift of focus towards new Western-led operations outside the European arena (notably in Iraq and Afghanistan).⁵⁰ The EU's Copenhagen European Council of 12-13 December 2002 played a crucial part, not just by virtue of its decisions on the timing of movement towards Turkish accession negotiations, but also by way of its endorsement of detailed understandings including the fact that, under no circumstances, the ESDP would be used against an Ally and that Cyprus and Malta as members of the EU would not take part in any ESDP operations using NATO assets.⁵¹ The Turkish Government now felt able to go along with the signature of an EU-NATO Declaration at Brussels on 16 December 2002 which opened the way for the detailed development of 'Berlin plus' arrangements.⁵² The specifics were agreed to in March 2003 and were intended to give the EU permanent access to the planning assets of NATO, while provision of other assets would be on a case-by-case basis.⁵³ The two

⁴⁶ See Öymen, *loc. cit.*

⁴⁷ See A. Missiroli, 'EU-NATO Cooperation in Crisis-Management: No Turkish Delight for ESDP', 33 *Security Dialogue* (2002), 9-26; Ö. Terzi, 'New Capabilities, Old Relationships: Emergent ESDP and EU-Turkish Relations', 3 *Southeast European Politics* (2002), 43-61; and van Eekelen (2006), *op. cit.*, at 67-68: 'First, it delayed implementation of the 'Berlin Plus' agreement. Later, after the accession of Cyprus and Malta, it made it impossible for EU-NATO consultation to go beyond the agreed operations in the Balkans and Darfur'.

⁴⁸ See E. Lenski 'Turkey (including Northern Cyprus)', in S. Blockmans and A. Łazowski (eds.), *The European Union and Its Neighbours: A Legal Appraisal of the EU's Policies of Stabilisation, Partnership and Integration* (The Hague, T.M.C. Asser Press 2006), 283-313.

⁴⁹ See S. Blockmans, *Tough Love: the European Union's Relations with the Western Balkans* (The Hague, T.M.C. Asser Press 2007), 177-240.

⁵⁰ Especially the war in Iraq led to serious rifts. See E. Pond, *The Dynamics of Alliance Diplomacy over Iraq*, EU Working Papers RSCA No. 2004/26 (Florence, EUJ 2004).

⁵¹ *Bull. EU* 12-2002, points I.6, I.9 and I.17.3 (Annex II).

⁵² See H. Bağcı and A. Yıldız, 'Turkey and the European Security and Defence Policy (ESDP): From Confrontational to Cooperative Relationship', in A.L. Karaosmanoğlu and S. Taşhan (eds.), *The Europeanization of Turkey's Security Policy: Prospects and Pitfalls* (Ankara, Foreign Policy Institute 2004), 79-100.

⁵³ The finalisation of the 'Berlin plus' arrangements was concluded with the signing of a Security of Information Agreement between the European Union and NATO on 14 March 2003. See Council Decision 2003/211/CFSP of 24 February 2003 concerning the conclusion of the Agreement between the European Union and the North Atlantic Treaty Organisation on the Security of Information, *OJ* 2003 L 80/35. The agreement itself is not publicly accessible. For background and analysis, see M. Reichard, 'Some Legal Issues Concerning the EU-NATO Berlin plus Agreement', 73 *Nordic JIL* (2004), 37-67. After a more thorough examination of the characteristics of 'Berlin plus', the same author comes to the conclusion that the document underpinning the arrangements does not meet 'enough' requirements to qualify as an international treaty under the 1969 Vienna Convention on the Law of Treaties and the 1986 Vienna Convention on the Law of Treaties between States and International Organisations. See M. Reichard, *The EU-NATO Relationship: A Legal and Political Perspective* (Aldershot, Ashgate 2006), at 288-300, in particular at 300: 'The strongest evidence supporting such a conclusion are the title as

institutions also moved swiftly to open the way for the EU to take over NATO's mission Allied Harmony in the Former Yugoslav Republic of Macedonia (FYROM), and similar arrangements were negotiated for the takeover of SFOR in Bosnia-Herzegovina.⁵⁴ For its part, the EU did not fail to notice these developments in the context of Turkey's accession bid: the 2003 Regular Report on Turkey's progress towards accession stated: 'Turkey's agreement to the comprehensive deal reached in December 2002 regarding EU-NATO relations allowed cooperation in military crisis management, lifting the obstacles in the implementation of the Berlin plus agenda.'⁵⁵

4. TURKEY'S CRUCIAL CONTRIBUTION TO THE EARLY SUCCESSES OF ESDP

4.1. COMMITMENT TO LEGAL REFORM AND ALIGNMENT TO CFSP

Like the candidate countries before it, Turkey already participates in the Common Foreign and Security Policy of the Union in the pre-accession phase. Arguably, it is thanks to this preparation that enlarging the CFSP acquis generally raises no real problems. Another explanation lies in the fact that thanks to CFSP's largely declaratory nature, its incorporation into the national legal system requires few domestic adjustments and does not impose substantial budgetary burdens.⁵⁶ Moreover, conditionality generally does not play a significant role in this domain. The process of legal adaptation and policy convergence therefore goes relatively well, also in the wider – though related – context:

Turkey has continued to express its commitment to the EU accession process. Free and fair local elections have been held. Positive steps have been taken in the areas of the judiciary, with the adoption of the judiciary reform strategy and action plan, civil-military relations and cultural rights. In particular, parliament amended legislation to allow civilian courts to try military personnel in peace time. The government has opened a wide-ranging public debate with a view to addressing

'Declaration', lack of specific treaty-making capacity of the EU, and its half-secret nature, hinting at NATO's lack of consent to be bound.' It is Reichard's view, however, that 'Berlin plus' is a non-binding agreement that can, on the basis of the application of regional customary law and the principle of estoppel, create the possibility of redress for the aggrieved party. *Ibid.*, at 301-310.

⁵⁴ See *infra*, section 4.2.

⁵⁵ European Commission, *2003 Regular Report on Turkey's Progress towards Accession*, at 123.

⁵⁶ See G. Edwards, 'Europe's Security & Defence Policy and Enlargement: The Ghost at the Feast?', *EUI Working Papers* RSC No. 2000/69 (San Domenico di Fiesole, EUI 2001). Previous applicants' attitude is well analysed in J.-L. Dehaene and P. Dunay, 'Boxes: Why CFSP and ESDP Do Not Matter Much to EU Candidate Countries', *RSC Policy Papers* No. 01/5 (San Domenico di Fiesole, EUI 2001), and in the country reports in A. Missiroli (ed.), 'Bigger EU, Wider CFSP, Stronger ESDP? The View from Central Europe', *Occasional Papers* No. 34 (Paris, EUISS 2002).

the Kurdish issue, and the public television started operating a channel which broadcasts entirely in the Kurdish language.⁵⁷

Turkey broadly aligns itself with CFSP statements, declarations and *démarches*.⁵⁸ The pre-accession negotiations on the CFSP (Chapter 31) are expected to go rather smoothly and to be quickly brought to an end.⁵⁹ The screening activities in this field took a mere three weeks to be completed (from 14 September to 6 October 2006). The only issues that are expected to stir up some controversy through non-alignment with CFSP statements, declarations and *démarches* are those regarding human rights and national security concerns.⁶⁰ Having said that, the European Commission, in its annual progress reports, has been careful not to lose sight of the bigger picture and has consistently appreciated Turkey's stabilizing role in the wider region:

⁵⁷ European Commission, Communication from the Commission to the European Parliament and the Council, *Enlargement Strategy and Main Challenges 2009-2010*, COM(2009) 533, 14 October 2009, at 16. On the Kurdish issue, however, there have recently been some worrying developments, as reported by D. Strauss, 'Turkey bars main pro-Kurdish party', *Financial Times*, 11 December 2009; and 'Turkey cracks down on banned Kurdish party', *Reuters*, 24 December 2009.

⁵⁸ See European Commission, *Turkey 2009 Progress Report*, COM(2009) 533, at 87: 'Turkey aligned itself with 99 CFSP declarations from a total of 128 declarations adopted by the EU during the reporting period. Turkey did not follow the EU position expressed in statements concerning some Africa-related issues and in declarations concerning for example Uzbekistan, Syria, Iran and Yemen. No particular developments can be reported as regards *restrictive measures*. Concerning *non-proliferation* of weapons of mass destruction, Turkey is party to all the existing international arrangements. With regard to cooperation with *international organisations*, Turkey has not signed the statute of the International Criminal Court.' For backgrounds and analysis, see H. Kramer, 'Die Gemeinsame Außen- und Sicherheitspolitik der Europäischen Union und die Türkei', 27 *Integration* (2004), 44 et seq.

⁵⁹ This is unlike Chapter 30 on external relations, one of the chapters that remain frozen. On 11 December 2006, the EU General Affairs and External Relations Council concluded that 'the Member States within the Intergovernmental Conference will not decide on opening chapters covering policy areas relevant to Turkey's restrictions as regards the Republic of Cyprus until the Commission verifies that Turkey has fulfilled its commitments related to the Additional Protocol', *i.e.* opening its ports and airports to Greek Cypriot ships and aircraft. See Council Conclusions of 11 December 2006, Press release No. 16289/06 (Presse 352), at 9. In an unprecedented move in the history of EU enlargement policy, eight chapters were suspended: free movement of goods (Chapter 1), the right of establishment and the freedom to provide services (Chapter 3), financial services (Chapter 9), agriculture and rural development (Chapter 11), fisheries (Chapter 13), transport (Chapter 14), customs union (Chapter 29) and external relations (Chapter 30). Some days later, the European Council endorsed the conclusions: 'Turkey has not fulfilled its obligation of full non-discriminatory implementation of the Additional Protocol to the Association Agreement.' See *Bull. EU* 12-2006, point I.5.10. However, since then, additional chapters have been opened (e.g. those on enterprise and industrial policy, the compilation of statistics and financial control, Trans European Networks, consumer and health protection, company law, IP law, information society and media, economic and monetary policy, taxation). Turkey has expressed support for the ongoing negotiations under UN auspices between the leaders of the Greek Cypriot and Turkish Cypriot communities to reach a comprehensive settlement of the Cyprus problem. However, there has been no progress towards normalisation of bilateral relations with the Republic of Cyprus. On 17 April 2007, Turkey adopted a 400-page 'Programme for Alignment with the Acquis 2007-2013', available at the website of the Secretariat General for EU Affairs, <<http://www.abgs.gov.tr/index.php?p=6&l=2>>. The appointment of a full-time Chief Negotiator should further streamline the efforts of the government in the context of EU-related reforms.

⁶⁰ See further M. Emerson and N. Tocci, 'Turkey as Bridgehead and Spearhead: Integrating EU and Turkish Foreign Policy', *EU-Turkey Working Papers* (Brussels, CEPS 2004).

Turkey plays a key role in regional security and the promotion of dialogue between civilisations. Turkey has taken initiatives to contribute to stabilisation in the Southern Caucasus, the Middle East and other regions. It participates in a number of EU peace-keeping missions. Significant diplomatic efforts to normalise relations with Armenia were made, resulting in the signature of protocols for the normalisation of relations in October 2009.⁶¹

4.2. TURKEY'S PARTICIPATION IN EU-LED OPERATIONS

4.2.1. Practice...

Since the early days of EU crisis management, Turkey has assisted the Union in getting ESDP off – or rather on – the ground. Turkey represents the third largest contributor of personnel among third countries in ESDP missions/operations.⁶² The EU has benefited from Turkish contributions in seven missions, including a very substantial one in the ongoing peacekeeping operation conducted under the 'Berlin plus' arrangements, EUFOR Althea in Bosnia and Herzegovina.⁶³ Also under the 'Berlin plus' arrangements, Turkey joined the European Union's inaugural military operation in Macedonia (Concordia),⁶⁴ when the Union took over from NATO's Allied Harmony in March 2003. However, it did not participate in Operation Artemis in the Democratic Republic of Congo, the only military operation launched so far by the EU without using NATO assets. Turkey has participated in the EU Police Mission in Macedonia (EUPOL Proxima),⁶⁵ and is continuing to contribute to EUPM, the EU-led police mission in Bosnia and Herzegovina.⁶⁶ Moreover, through its participation in UN-led or -approved operations (e.g. UNIFIL in Lebanon, ISAF in Afghanistan, and the counter-piracy naval Combined Task Force 151 in the Gulf of Aden), Turkey is also working side-by-side with EU Member States and in support of parallel EU-led operations (e.g. Operation Atalanta).

⁶¹ See, most recently, Communication from the Commission to the European Parliament and the Council, *Enlargement Strategy and Main Challenges 2009-2010*, COM(2009) 533, 14 October 2009, at 17. See also *supra*, n. 2.

⁶² See A. Davutoglu, 'Bridging an Unnecessary Divide: NATO and the EU', *ISSues* No. 30, October 2009, at 5.

⁶³ PSC Decision BiH/1/2004 (2004/732/CFSP) of 21 September 2004 on the acceptance of third States' contributions to the European Union military operation in Bosnia and Herzegovina, *OJ* 2004 L 324/20.

⁶⁴ Agreement between the European Union and the Republic of Turkey on the participation of the Republic of Turkey in the European Union-led forces in the Former Yugoslav Republic of Macedonia, *OJ* 2003 L 234/23.

⁶⁵ Agreement between the European Union and the Republic of Turkey on the participation of the Republic of Turkey in the European Union Police Mission (EUPOL Proxima) in the former Yugoslav Republic of Macedonia, *OJ* 2004 L 354/90.

⁶⁶ Agreement between the European Union and the Republic of Turkey on the participation of the Republic of Turkey in the European Union Police Mission (EUPM) in Bosnia and Herzegovina (BiH), *OJ* 2003 L 239/35.

4.2.2....before principle

Since mid-2006, a detailed framework for Turkey's participation in EU-led crisis management operations is provided for by a bilateral agreement concluded between the EU and Turkey on the basis of the old Article 24 TEU (new Art. 37 TEU).⁶⁷ The 2006 Agreement, as indeed the contribution of Turkey to any future EU-led crisis management operation, is without prejudice to the decision-making autonomy of the Union and does not prejudice the case-by-case nature of the decisions of Turkey to participate in an EU crisis management operation. According to the provisions of the Agreement, Turkey will inform the Union of any intention to participate in EU-led military crisis management operations with recourse to NATO assets and capabilities and subsequently provide information on its proposed contribution to the EU (Art. 1(2)). The latter also applies to all other EU crisis management operations to which Turkey has been invited to contribute (Art. 1(1)). The agreed framework for cooperation is that Turkey *associates* itself with the Joint Action by which the Council of Ministers decides that the EU will conduct a crisis management operation,⁶⁸ in accordance with the provisions of the Agreement and any required implementing arrangements (Art. 2(1)). The status of personnel seconded to a future CSDP operation and/or of the forces contributed to it by Turkey is to be governed by a separate agreement on the status of forces/mission concluded between the EU and the host-state (Art. 3(1)). Turkey maintains jurisdiction over its personnel participating in the operation (Art. 3(3)). By consequence, Turkey remains responsible for answering any claims linked to the participation in the operation from or concerning any of its personnel. Ankara is thus responsible for bringing any legal or disciplinary action against any of its personnel in accordance with its own laws and regulations (Art. 3(4)). In case of death, injury, loss or damage to natural or legal persons from the host-state, Turkey is required, when its liability has been established, to pay compensation under the conditions foreseen in the agreement on status of mission, if available (Arts. 7(2) and 11(2)).⁶⁹

According to Article 4(1) of the Agreement, Turkey is also required to take appropriate measures to ensure that EU classified information is protected in accordance with the Council's security regulations contained in Council Decision

⁶⁷ See Council Decision 2006/482/CFSP of 10 April 2006 concerning the conclusion of the Agreement between the European Union and the Republic of Turkey establishing a framework for the participation of the Republic of Turkey in the European Union crisis management operations, *OJ* 2006 L 189/16, with the Agreement attached to it.

⁶⁸ And with any Joint Action or Decision by which the Council decides to extend the operation.

⁶⁹ See, generally, F. Naert, *International Law Aspects of the EU's Security and Defence Policy, with a Particular Focus on the Law of Armed Conflict and Human Rights* (Antwerp, Intersentia 2009).

2001/264/EC,⁷⁰ and in accordance with further guidance issued by, e.g., the EU Operation Commander (in case of EU military crisis management operations) or the EU Head of Mission (in case of EU civilian crisis management operations).⁷¹ Conversely, if the EU receives classified information from the Turkish authorities, that information ought to be given protection appropriate to its classification and according to the standards established in the regulations for EU classified information. Finally, Turkey is expected to assume all the costs associated with its participation in a CSDP operation apart from the costs which are subject to common funding (Arts. 7(1) and 11(1)). Turkey shall also contribute to the financing of the operational budget of the operation (Arts. 8 and 12).

As such, the ground rules for Turkey's participation in EU-led crisis management operations have been agreed to by both parties. They have been applied to prolong Turkey's participation in some of the ongoing missions and for the establishment of cooperation within the framework of the EULEX mission in Kosovo.⁷²

5. ENHANCED SECURITY COOPERATION?

While a lot has been achieved since the *déclic* of the 'Berlin plus' arrangements in 2003, a number of practical and major political hurdles still need to be cleared before one truly can speak of a strategic partnership between the EU and Turkey in the field of civil-military security cooperation. Turkey has stressed its discontent with its status within ESDP/CSDP. In essence, Ankara believes that the 2006 bilateral agreement establishing a framework to involve Turkey in crisis management operations falls short of the concept of a true strategic and security partnership. Its main grievance is that whereas ESDP/CSDP has been presented since the start as an open project, Turkey, though a NATO member for 50 years, an EU candidate country since 1999 and a major contributor among third country partners, is not associated with some of its decisions in areas of its immediate neighbourhood where it should play a key role – for instance, with regard to Iraq and Georgia.⁷³ Another of Turkey's complaints is

⁷⁰ OJ 2001 L 101/1.

⁷¹ For the chains of command, see Article 6 (civilian crisis management operations) and 10 (military crisis management operations) of the Agreement. The bottom-line is that, while national authorities transfer operational control (for day-to-day management) to the Head of Mission c.q. EU Operation Commander, all personnel shall remain under the full command of their national authorities. In addition, Turkey has the same rights and obligations in terms of day-to-day management of the operation as EU Member States taking part in the operation.

⁷² See the list of contributing states in Factsheet on EU Rule of Law Mission in Kosovo (EULEX Kosovo), EULEX/08, July 2009.

⁷³ See Davutoglu, *loc. cit.*

over the administrative arrangements with the European Defence Agency (EDA). Whereas Turkey has participated from the start in the development of the EDA, there is still no clear perspective on whether it will have a seat at the decision-making table, or at least closer association, in the future. These sources of frustration, along with the absence of a unified strategic concept applied by NATO and the EU,⁷⁴ could indeed lead to the conclusion that Turkey's relationship with CSDP will remain limited. The question, however, is whether a strengthened cooperation between Turkey and CSDP can be considered prior to a resolution of the pending political issues between Turkey and the EU.

6. THE DRIVERS OF FUTURE COOPERATION

As was true a decade ago,⁷⁵ there are three assets that make Turkey an indispensable actor in the current European security system and in making CSDP a sustainable enterprise: its NATO membership, its military capabilities, and its geostrategic position. First, by exercising its vote in the North Atlantic Council, Turkey has an institutional lever which can affect the EU's military aspirations. Second, Turkey's military capabilities and industrial capacities are vital for carrying out CSDP operations in the EU's expanding security area. Third, Turkey controls a geostrategic intersection between the Balkans (*cf.* its role in Kosovo and Bosnia and Herzegovina), the Southern Caucasus (especially vis-à-vis Armenia – with the recent Turkish *rapprochement* policy – and Azerbaijan, and the Nagorno-Karabakh issue), the Middle East,⁷⁶ and Central Asia, which qualifies it as a major player in all these regions. The so-called 'zero problems with neighbours' dimension of Turkey's foreign policy, as well as its active role as a 'facilitator' in all of the above-mentioned regions is being welcomed.⁷⁷ Turkey wants a region free of weapons of mass destruction. Therefore there is no divergence regarding the EU's position towards Iran, even

⁷⁴ According to Ankara, the harmonisation of the ESS with NATO's Strategic Concept is the only way to cope with the changing paradigm in global security issues – as made visible between the 2003 ESS and the 2008 Implementation Report: the heyday of territorial defence is over and priority is now given to asymmetric threats: failing states, frozen conflicts, global warming, energy security, non-proliferation. If the military dimension of CSDP is to be maintained, the EU should not take NATO for granted in advance of any mission or operation. Moreover, in a time of acute financial constraints, avoiding duplication should be a priority. See Davutoglu, *loc. cit.*

⁷⁵ See Müftüler-Bac, *loc. cit.*

⁷⁶ See K. Kirişçi, N. Tocci and J. Walker, 'A Neighborhood Rediscovered: Turkey's transatlantic value in the Middle East', Transatlantic Academy, *GMF Brussels Forum Paper Series*, March 2010.

⁷⁷ On a broader stage, Turkey openly favours multilateral commitments, for instance by addressing issues such as international organised crime. Apart from its military capabilities and its engagement with NATO, Turkey has a commitment to 'soft power' actions at a global level that complements the EU's foreign policy methodology and priorities. Of course, Ankara still needs to strengthen the 'soft power' dimension of its action – particularly in the way it addresses pending issues in its neighbourhood. Its current initiative towards Armenia seems to indicate such a dynamic.

though Turkey will insist that all diplomatic options need to be exhausted. All this has helped some European actors rediscover Turkey's importance as a regional ally,⁷⁸ especially as they seek to lessen dependence on Russia for energy.⁷⁹ Moreover, enhanced security cooperation would correspond with Turkey's traditionally strong commitment to multilateralism, which recently entered a new phase with its participation in the G20 and its recent status of non-permanent Member of the UN Security Council; its position as a 'net contributor' to international security both through hard and soft power; and its commitment to sustainable development.

On the other hand, Turkey's uneasy relations with Israel, its direct involvement in the Cyprus issue⁸⁰ and the remaining potential of a new escalation of tensions with Greece, Turkey's considerable stakes in the Turkic societies of Central Asia, and its direct exposure to the instabilities in the Caucasus hamper this trend towards convergence and may bring new security headaches to the Union. There are also serious questions about Turkey's internal stability – i.e. the Kurdish problem,⁸¹ the role of the army in the constitutional republic,⁸² the role of Islam in society and in the secular state,⁸³ the level and distribution of its economic development,⁸⁴ which, together with the sheer size of its population, form serious obstacles to its EU membership aspirations.⁸⁵ These challenges lie at the root of some Member States' prolonged rejection of Turkey's ambition of accession. However, Turkey's role for the EU, not merely as a 'gatekeeper' but as a strategic partner in regional affairs, has acquired such importance that insisting on this rejection is no longer reasonable.⁸⁶ At

⁷⁸ Even if Turkey should be considered an international actor whose influence is not limited to its neighbourhood, it has been suggested that priority could be given to the Middle East and the Southern Caucasus for a reinforced security cooperation between the EU and Turkey. See Fajolles, *loc. cit.*

⁷⁹ The EU is backing the Nabucco gas pipeline project, which will link supplies in the Caspian, Iran and Iraq through Turkey and the Balkans to an Austrian hub. An agreement was signed in Ankara on 13 July 2009 between Austria, Bulgaria, Hungary, Romania and Turkey. Nabucco ought to be operational by 2014. For a commentary, see K. Barysh, 'Turkey's Role in European Energy Security', *CER Essays*, December 2007.

⁸⁰ See the second report of the Independent Commission on Turkey, *Turkey in Europe: Breaking the Vicious Circle* (Open Society/British Council, 2009), at 17-20 (and International Crisis Group, 'Turkey and Europe: the decisive year ahead', *Europe Report* No. 197, 15 December 2008).

⁸¹ *Ibid.*, at 21-24. See *supra*, n. 57.

⁸² *Ibid.*, at 13-15. See also S. Arsu, 'Turkey Shaken by Officer Arrests', *New York Times*, 24 February 2010, in a move allegedly connected to the investigations into the so-called Ergenekon conspiracy (see next note).

⁸³ *Ibid.*, at 34-37. See also the reporting on the ongoing crack-down of an underground group known as Ergenekon accused of trying to overthrow the government led by the Islamist AK Party: D. Bilefsky, 'In Turkey, Trial Casts Wide Net of Mistrust', *New York Times*, 22 November 2009 and.

⁸⁴ *Ibid.*, at 38-42.

⁸⁵ On all of these issues – and more, see the excellent book by A. Dismorr, *Turkey Decoded* (London, Saqi 2008).

⁸⁶ This begs the question posed and answered by K. Barysh, 'Can Turkey Combine EU Accession and Regional Leadership?', *CER Policy Brief*, January 2010. See also S. Düzgüt and N. Tocci, 'Transforming Turkish Foreign Policy: The Quest for Regional Leadership and Europeanisation', *CEPS Commentary*, 12 November 2009.

the same time, a definite positive answer to the question as to whether Turkey will join the Union is premature.⁸⁷

7. DOES THE LISBON TREATY PROVIDE WAYS TO IMPROVE EU-TURKEY SECURITY COOPERATION?

Arguably, there is room for a stronger Turkish involvement in CSDP operations, especially since the strategic interests of the EU and Turkey are increasingly converging.⁸⁸ It has been suggested that the creation of an EU-Turkey Summit as an official framework for political discussion would represent a step forward in this direction – though, according to others, the institutionalisation of a Turkey-EU strategic dialogue would in a way be tantamount to giving up on the principle of accession.⁸⁹ Another way would be to grasp the opportunities offered by the new Lisbon Treaty.

With the Lisbon Treaty, two important mechanisms for security and defence cooperation have been introduced: the ‘enhanced cooperation’ mechanism,⁹⁰ and the permanent structured cooperation mechanism.⁹¹ Enhanced cooperation, a mechanism which was already established by the Amsterdam and Nice treaties, now covers foreign and common security policy in situations where the Union as a whole cannot achieve the cooperation goals within a reasonable timeframe, and whenever at least nine Member States participate in the proposed action. The permanent structured cooperation mechanism, by contrast, provides for closer cooperation between the Member States that show a capacity and the willingness to make greater efforts in the security domain. The goal of this mechanism is clear: to

⁸⁷ This is the gist of the claim put forward by the Independent Commission on Turkey in its second report, a clear – albeit perhaps slightly idealistic – signal to political leaders in, *inter alia*, France and Germany.

⁸⁸ This thesis is developed by A. Stubb, ‘In Search of Smart Power’, in A. de Vasconcelos (ed.), *What Ambitions for European Defence in 2020?* (Paris, EUISS 2009), 131-141, at 137-138 and A. de Vasconcelos, ‘Conclusions – Ten Priorities for the Next Ten Years’, *ibid.*, 159-168, at 166.

⁸⁹ See D. Fajolles, ‘Turkey and the ESDP: towards enhanced cooperation?’, *EUISS Seminar Reports*, 11 December 2009, at 3.

⁹⁰ Art. 42(5) TEU states: ‘The Council may entrust the execution of a task, within the Union framework, to a group of Member States in order to protect the Union’s values and serve its interests.’ In practice, this principle is referred to as the ‘Group of the willing’ clause. Further details about this option are to be found in Art. 44 TEU. See J. de Zwaan, ‘Foreign Policy and Defence Cooperation in the European Union: Legal Foundations’, in S. Blockmans (ed.), *op. cit.*, 17-36.

⁹¹ Articles 42(6) and 46 of the TEU, and the Protocol on permanent structured cooperation established by Article 42 TEU. Art. 42(6) TEU states: ‘Those Member States whose military capabilities fulfill higher criteria and which have made more binding commitments to one another in this area with a view to the most demanding missions shall establish permanent structured cooperation within the Union framework.’ See S. Biscop and J. Coelmont, ‘Permanent Structured Cooperation in Defence’, *EGMONT Security Policy Brief*, March 2010, who offer a concrete proposal to implement PSCD.

promote the establishment of an effective political framework and instrument to develop European military capabilities, according to criteria agreed to by the Member States. More specifically, the goal is to encourage states to channel the resources they already spend on defence to focus on collective interests, particularly when it comes to the deployment and maintenance of military forces and the promotion of defence research and development (R&D).

The development of these cooperation mechanisms can be seen as an opportunity to promote the development of the defence capabilities of the Member States *and* third countries which show a willingness to contribute to the common defence and security goals, namely by enabling the latter to participate in CSDP missions. The key issue now is to develop a more flexible framework for working together with strategic partners. After all,

[t]here is no reason for the European Union not to open [C]SDP to strategic partners and develop with them common training and interoperability necessary to the effectiveness of the missions. This is already happening in a number of *ad hoc* cases, but should become the rule. (...) Deeper cooperation should be sought first and foremost with candidate countries and neighbouring countries. Turkey in particular should be fully associated with the [C]SDP and all EU agencies.⁹²

In a Schengen-like way, Turkey could be tied into the Union's enhanced and permanent structured cooperation mechanisms through the conclusion of bilateral or multilateral agreements ex Articles 8, 21 and 37 TEU.⁹³ In essence, this would boil down to an upgrade of the 2006 bilateral agreement. As such, the strategic partnership with Turkey could come to full fruition and it could simultaneously ensure that interaction in CSDP is as efficient as it needs to be.

In the absence of political will on the side of the Member States to renegotiate the 2006 bilateral agreement, the main practical contexts for observing the next

⁹² de Vasconcelos, *loc. cit.*, at 166.

⁹³ Art. 8 states: '1. The Union shall develop a special relationship with neighbouring countries, aiming to establish an area of prosperity and good neighbourliness, founded on the values of the Union and characterized by close and peaceful relations based on cooperation. 2. For the purposes of paragraph 1, the Union may conclude specific agreements with the countries concerned. These agreements may contain reciprocal rights and obligations as well as the possibility of undertaking activities jointly. Their implementation shall be the subject of periodic consultation.' Art. 21 TEU states that '[t]he Union shall seek to develop relations and build partnerships with third countries' which share 'the principles which have inspired its own creation, development and enlargement, and which it seeks to advance in the wider world: democracy, the rule of law, the universality and indivisibility of human rights and fundamental freedoms, respect for human dignity, the principles of equality and solidarity, and respect for the principles of the United Nations Charter and international law.' Art. 37 states: 'The Union may conclude agreements with one or more States or international organisations in areas covered by th[e] Chapter' on 'Specific Provisions on the Common Foreign and Security Policy'.

stage in the evolution of EU-Turkey relations in CSDP will (continue to) be Turkey's position vis-à-vis specific EU-led operations (e.g. those in Africa and the Middle East); its possible further offers regarding the development of CSDP capabilities, e.g. in the context of its participation in the Battlegroup concept;⁹⁴ its position toward the new EDA (covering capability and armament issues);⁹⁵ its alignment with the EU position on membership of certain suppliers' groups, such as the Wassenaar Arrangement on Export Controls for Conventional Arms and Dual-Use Goods and Technologies;⁹⁶ and its role in the further development of institutional links between NATO and the European Union.

It is precisely in the latter area, that of EU-NATO relations beyond the 'Berlin plus' arrangements, that Turkey continues to block cooperation. Ankara has prevented closer EU-NATO cooperation, notably in the context of civilian CSDP missions, in an attempt to bring pressure on the EU to make concessions on Cyprus and its EU membership bid, and Turkey's standing in CSDP – a tactic which has antagonised both EU and NATO officials. Given the importance of closer EU-NATO cooperation for enhancing international crisis management, greater effort needs to be made to overcome Turkish objections. However, this issue cannot be resolved at the bureaucratic level; it will require high-level political intervention, including that of the United States.⁹⁷ In addition, it will require the political leaders of EU Member States to show greater flexibility in addressing Turkey's concerns and to put greater institutional pressure on the Greek Cypriots to make progress in resolving the Cyprus issue.⁹⁸

⁹⁴ The 'Headline Goal 2010' includes the establishment of so-called 'battlegroups': 'force packages at high readiness as a response to a crisis either as a stand-alone force or as part of a larger operation enabling follow-on phases'. Headline Goal 2010, approved by the General Affairs and External Relations Council on 17 May 2004 and endorsed by the European Council of 17 and 18 June 2004, available at <<http://www.consilium.europa.eu/uedocs/cmsUpload/2010%20Headline%20Goal.pdf>>. On decision-making, the ambition of the EU was to be able to take the decision to launch an operation within 5 days of the approval of the so-called Crisis Management Concept by the Council. On the deployment of forces, the ambition was that the forces start implementing their mission on the ground, no later than 10 days after the EU decision to launch the operation. In December 2008, the Council adopted a 'Declaration on Strengthening Capabilities' in which a number of additional measures were agreed on to ensure that the EU will have sufficient ESDP capabilities to enhance its contribution to international peace and security; available at <http://www.consilium.europa.eu/ueDocs/cms_Data/docs/pressData/en/esdp/104676.pdf>. Turkey forms a Battlegroup together with Italy and Romania and is on stand-by in the second half of 2010. See EU Council Secretariat, Factsheet EU Battlegroups, EU BG 02, November 2006; and G. Quille, 'Note: The EU Battlegroups', DGExPo/B/PolDep/Note/2006_145, 12 September 2006, at 8.

⁹⁵ See Council Joint Action 2004/551/CFSP of 12 July 2004 on the establishment of the European Defence Agency, *OJ* 2004 L 245/17. For backgrounds and analysis on the EDA, see M. Trybus, 'The New European Defence Agency: A Contribution to a Common European Security and Defence Policy and a Challenge to the Community *Acquis*?', 43 *CML Rev.* (2006), 1964-2003.

⁹⁶ See European Commission, *Turkey 2009 Progress Report*, COM(2009) 533, at 87.

⁹⁷ S. Larrabee, 'The United States and the Evolution of ESDP', in de Vasconcelos (ed.), *op. cit.*, 51-60, at 57.

⁹⁸ Cyprus has wielded considerable power over EU-Turkey relations since it acceded to the EU in May 2004. See K. Özersay, 'Separate Simultaneous Referenda in Cyprus: was it a 'fact' or an 'illusion?', 6

8. CONCLUSION

The Helsinki decision to grant Turkey candidacy country status, the 'Berlin plus' arrangements on EU access to NATO assets, and the 2006 'Schengen-like' agreement on participation of Turkey in EU crisis management operations seem to have (temporarily) solved the dilemma for Brussels: now the EU can keep channels of communication with Turkey open, temper Turkish objections to the EU's new security arrangements, gain access to Turkish capabilities,⁹⁹ and use effective tools to influence Ankara's policies. But the EU has also paid a price for the operationalisation of CSDP: on a case-by-case basis, Turkey has kept its veto over the use of NATO's hardware assets by EU crisis management operations in its sphere of strategic interests. In the absence of the Union's own army, Ankara holds significant sway over EU foreign and security policy- and decision-making, even without being formally part of it. On that front, Turkey has craftily out-manoeuvred the Member States, Cyprus in particular, while at the same time asserting its national security interests in the face of an EU military plan that may be harmless in the short run but could potentially seriously damage its interests in the future.¹⁰⁰ It is further proof that Turkey is not an average EU candidate country, but a key actor in the development of the European Union's role in the world. The further development of CSDP is, at least in part, linked to progress on Turkey's path to EU accession. If the accession process were to stall, there could at some point be a strong divergence about CSDP if Turkey had in the meantime been more strongly associated with the Union's security and defence policy. A visible discrepancy between specific forms of policy cooperation and an unsatisfactory political cooperation overall could have high costs on both sides.¹⁰¹ To prevent such a lose-lose situation requires vision, political

Turkish Studies (2005), 379-399; M. Akgün, A. Gürel, S. Tiryaki and M. Hatay. *Quo Vadis Cyprus* (Istanbul, TESEV Publications 2005); F. Hoffmeister, *Legal Aspects of the Cyprus Problem* (Leiden, Martinus Nijhoff 2006); and M. Brus, M. Akgün, S. Blockmans, S. Tiryaki, Th. van den Hoogen and W.Th. Douma, *A Promise to Keep: Time to End the International Isolation of the Turkish Cypriots* (Istanbul, TESEV Publications 2008).

⁹⁹ See, e.g., See D. Korski, 'Time for Europe to Think Bold Thoughts', *ECFR*, 10 February 2010, who claims that A Turkish-EU troop offer could help unlock Gaza and the Middle East peace process: 'One bold idea might (...) [be] the deployment of 2000 European soldiers in a hybrid mission with Turkey to monitor the border between Gaza, Israel and Egypt, as an integral part of an intra-Palestinian reconciliation deal. (...) The initiative has the added benefit of potentially bringing Turkey back into a constructive Middle East role, while laying the foundations for a strategic EU-Turkey link not focused exclusively on EU accession. Turkish alienation from both Israel and the EU has been a serious concern for Jerusalem and Brussels. An offer of a joint mission might help bring the Ankara government back into a constructive role. If an EU-Turkish mission could be run by a senior Turkish official, then all the better.'

¹⁰⁰ In Turkey there was a strong feeling that its veto over European military arrangements was a 'card that [could] and [should have been] played', as *The Economist* reported on 23 December 2000.

¹⁰¹ See Fajolles, *loc. cit.*, at 3.

will and strong confidence-building efforts from both sides. Indeed, 'it may be that it is in Istanbul that we shall write the next chapter in our European story'.¹⁰²

¹⁰² C. Patten, *Not Quite the Diplomat* (London, Penguin Books 2006), at 151.



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