European Foreign Affairs Review **12**: 431–435, 2007.

Guest Editorial

Transitional Arrangements for Enlargement

Willem van Eekelen*

The enlargement processes of both NATO and the European Union seem to be stalling. NATO at the Riga summit of November 2006 did not issue new invitations for membership, but might take further steps at Bucharest in 2008. The EU, for its part, has completed its greatest enlargement ever with the accession of Bulgaria and Romania and has named Turkey, Croatia and Macedonia as 'candidates'. The time frame for their actual accession is likely to be long and in the case of Turkey is expected to take ten years or more. This raises the question whether such a long process is sustainable without some milestones marking progress and fostering a sense of solidarity and cooperation. A second question concerns the relationship between the negotiations for membership and the multitude of other arrangements the EU has, like partnership, association and the European Neighbourhood Policy, most of which come up for review in the next year or so. In this context the Slovenian Presidency has taken the initiative to take a look at the shape the EU might have by 2020.

Transitional arrangements could take two forms: either formal agreements, short of full membership but consolidating progress on the path towards it, or practical arrangements for joint action in specific cases. Obviously, the latter would be easier to accomplish, but raise questions how the candidate participates in decision-making. The former should deal with the institutional modalities, but have to be sufficiently meaningful to both sides, which will require a mutual willingness to put items on the agenda of the institutional framework. If successful, such arrangements would help in creating mutual confidence, create a habit of cooperation and serve as examples of common approaches On the other hand, the candidate country might fear that such an

* Dr Willem F. van Eekelen (1931) started his career as a diplomat in 1957 and entered Dutch politics in 1977. He was State Secretary of Defence, State Secretary for European Affairs and Minister of Defence. From 1989–1994 he was Secretary General of the Western European Union, followed by eight years as a Senator in the Dutch Parliament. He participated in the European Convention and is the author of *From Words to Deeds: The Continuing Debate on European Security* (CEPS/DCAF, 2006).

interim step might detract from the prospect of full membership, particularly as some of the possible interim steps might lend themselves also to arrangements with countries which are unlikely ever to enter the EU.

In principle, interim arrangements would be conceivable across the full board of EU activities and negotiating chapters. In practice, however, the so-called 'intergovernmental' areas of the EU seem to be most promising, first because they do not require treaty language, and secondly because they have little impact on the questions of the internal market and the transition from the existing customs union to full membership.

Past Practice

Throughout the years both NATO and the EU have reserved their Council meetings to the full members only. The European Political Cooperation (EPC), and after the Maastricht Treaty the Common Foreign and Security Policy (CFSP), were opened to new members as soon as their treaty of accession had been signed; they did not have to wait for its ratification by all Member States. The political finality of membership was assumed to be achieved. Only once did this assumption prove to be false, when in 1972 the Norwegian referendum rejected accession and the Norwegian delegation withdrew from the EPC.

After the ending of the cold war, NATO developed the North Atlantic Cooperation Council to include all countries joining the Partnership for Peace, which today even include formerly 'neutral' states. Individual partner-countries were offered meetings in which the full members acted as a group, first described as the 19+1 format, later as the 26+1. The only exception was the NATO–Russia Council, where the format was defined as a Council of 20, to indicate that Russia would have equal status on the subjects discussed.

Between 1991 and 1996, the Western European Union (WEU) enjoyed a brief period of prominence in its double role of security dimension of the EU and European pillar of NATO. It developed a unique arrangement for 'security through participation' by opening up the regular meetings of its Permanent Council to candidate countries before they reached the status of full members. At the Maastricht European Council of December 1991, apart from decisions on the pillar structure of the Union and on the start of the Euro currency, the WEU was charged with elaborating and implementing decisions having defence implications This new role necessitated a clarification of its relationship with NATO in general and with the non-EU European members of NATO in particular. An innovative solution was found in offering Iceland, Norway and Turkey the status of 'associate members' enabling them 'to participate fully in the activities'. Denmark and Ireland, which for different reasons did not want to be involved in a European defence policy, received observer status.

The arrangement was important in several ways. Procedurally it meant that the associate members and observers participated every other week in a meeting of the Permanent Council and in its preparation. On substance its value laid in the opportunity of putting items on the agenda, making security concerns known and seeing first hand how the full members were reacting to them. Formally, the associate members (and later the 'associate partners', countries which had signed a Europe Agreement with the EU, but were not yet members of NATO) did not have the right to vote, but, since decisions were taken by consensus, this meant that they could not block a consensus but were able to participate fully in the debate and join the outcome.

The Amsterdam Treaty transferred the functions of the WEU, including the Petersberg missions, to the CFSP and collaborative activities with non-members lapsed, much to the chagrin of the associate members. The only place where the status of associate membership still is meaningful is the WEU Assembly, renamed as the Interparliamentary Security and Defence Assembly, the only place where national parliamentarians discuss security and defence issues. The problem with this Assembly, however, is that there is no dialogue with a ministerial counterpart, since the WEU Council no longer functions.

In June 1999 the European Council of Cologne took the first step in developing EU military capabilities. The German Presidency attempted to take the delicate issue of participation of non-EU Member States forward with the statement 'that all 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 decision-making autonomy, notably the right of the Council to discuss and decide maters of principle and policy'. Their Presidency Report promised the non-EU NATO members satisfactory arrangements to ensure their fullest possible involvement in EU-led operations 'building upon existing consultation Arrangements within the WEU'. This phrase, taken from the 1999 Washington Declaration of the NATO summit, seemed to indicate provisions which would be additional to the WEU practice. In fact, they proved to be less because the General Affairs Council of the EU as a general rule remained restricted to full members only. The Cologne formula would have significance as soon as it was decided to attract participation of non-EU states, but did not define how and under which conditions such participation would be sought.

This issue would weigh heavily on EU–NATO relations and never was fully resolved. In December 2001, a compromise seemed to be found, which included a statement that the European Security and Defence Policy (ESDP) should not be used against a NATO ally, and another declaration that in case of an operation in the vicinity of a non-EU ally or touching on the security interests of that country, it would be consulted before the CFSP Council took a decision on issuing an invitation to participate. Turkey could live with this formula, but now it was Greece that needed time for reflection. The problem

spilled over into EU–NATO relations and the use of NATO assets in EU-led operations when the Alliance as a whole was not engaged militarily. Owing to the Turkish linkage of these matters to more extensive participation in ESDP decision-making, it would take until 16 December 2002 before the NATO Ministerial Council could approve the Berlin Plus arrangements, which allowed the 'fullest possible involvement' of non-EU members of NATO with the ESDP. In practice, Turkey participated in the operations *Proxima* in Macedonia and both the EU Police Mission and the military mission *Althea* in Bosnia, and has expressed an interest in the missions in Palestine.

A Multifaceted Approach

The EU approach to external relations might be described as doing more with everybody, but not necessarily the same thing, and fostering regional cooperation. Several of its policies contain institutional aspects which merit consideration as transitional tools. The European Economic Area has offered a half-way house to Austria, allowing participation in the emerging Internal Market before it applied for membership. Today the EEA only consists of Norway, Iceland and Liechtenstein, who have the right to be consulted by the European Commission and acquired a role in 'decision-shaping', but without a vote in decision-making. Nevertheless, they are the most closely linked to the EU in technical terms.

The European Neighbourhood Policy provides a framework for relations with the neighbours of the enlarged Union, with a single financial instrument in the Financial Perspectives 2007–2013, but without the promise of future membership. It is a combination of broad policy goals and some very specific issues contained in ambitious individual Action Plans. Indeed, so ambitious that one might question the ability of countries like Moldova and even Ukraine to implement some 400 areas of cooperation. The European Council of December 2005 supported proposals for 'deep' economic integration, going beyond simple free trade, and for closer association with EU foreign policy initiatives, mentioning explicitly a new initiative for the Black Sea region. If the EU is sincere in doing all that, it should do no less with the candidate countries.

Interim arrangements would seem most suitable when both sides have a clear interest in the matter and the subject is not seen as a one-sided concession or as the giving up of a trump card. Clear priority areas for the EU will be the security of energy supplies, a rational asylum and immigration policy, a stronger CFSP, a programme against global warming, better internal security through international cooperation in the third pillar, and the innovation items of the Lisbon Agenda. Some of these are interconnected. All have an

international dimension, which often transcends the orbit of EU enlargement. Yet, it would be wise to run through these areas and see whether more could be done with the candidate countries. To a certain extent, this could mean a change in the order of the negotiations.

The area where Turkey has manifested a great interest is involvement in the CFSP and the subsequent ESDP. The alarming situation in the Middle East might help realizing some of the proposed arrangements if the obstinacy of Cyprus can be reduced. Diminished American influence enhances the role of moderate countries in the region and Turkey, which has good relations with Israel, Iran and the Arab countries, might be a precious asset for a constructive European policy. But that is not the only area where more could be done. The other large intergovernmental area of Justice and Home Affairs might also offer opportunities for closer cooperation. The Balkans is likely to remain for some considerable time an area where the Schengen system of free movement of people will not be fully applied, but the need to combat organized crime, drugs trafficking and illegal immigration will require increased cooperation.

The emphasis should be on a parallel approach of negotiations on the *acquis* and cooperation in joint positions and joint actions. We should recognize that the European landscape will change in the course of the negotiations and that the importance of Turkey and the EU coming closer together, politically and economically, will only increase. As soon as the EU has put its own institutional house in order, it should be ready to apply Jean Monnet's approach and put relations with Turkey in a new context.