



Clingendael

Netherlands Institute of International Relations

Sovereignty, parliamentary involvement and European defence cooperation

Margriet Drent

Clingendael Report

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Margriet Drent

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Executive summary

This report finds that two discourses on sovereignty and defence cooperation can be distinguished. One where sovereignty is understood as 'independent authority' and the other where sovereignty is conceived as 'the ability to act'. The two conceptions of sovereignty rely on 'legitimacy' as the decisive factor. On the one hand, legitimacy because the state has decision-making autonomy scrutinized by national parliaments. On the other hand, legitimacy because the state is effective in delivering results in a modern, international context. Without unravelling which type of 'sovereignty' is meant, the debate on how the issue of sovereignty complicates defence cooperation will remain confused. Parliaments play an important role in reconciling the two different discourses as there are ways to improve their involvement in deeper defence cooperation without diminishing policy effectiveness.

The report looks into the various conceptions of sovereignty in three countries which are close partners in defence cooperation, Germany, the Netherlands and Belgium. How these countries and their parliaments conceive of sovereignty influences the extent and possibilities of cooperation. It is therefore highly relevant to understand the differences. It was assessed where on the 'old' and 'new' spectrum of sovereignty partners stand. The level of parliamentary control over the deployment of the armed forces of the three countries all fall into different categories. However, in practice, the three countries are moving closer in that there are trends towards facilitating German international defence responsibilities with its strict parliamentary control, the Netherlands' practice on deployments increasingly belongs to the high level of control and in Belgium more voices are being raised for more parliamentary involvement. In general, all three are open to defence cooperation, although the differences in size, financial leeway and domestic sensitivities are slowing progress down.

This report argues that trust is a key element to attain deeper defence cooperation and to accept dependencies. Building trust requires personal contact and an understanding of the motives and obstacles of a partner country. Obvious forums for national and European parliamentarians to meet each other are the existing interparliamentary bodies: the NATO Parliamentary Assembly and the new Interparliamentary Cooperation on CFSP. Also European Parliamentary groups can be important. However, it needs to be underlined that it is crucial to develop parliamentary dimensions to the smaller setting of clusters of defence cooperation. These can develop into places where parliamentary scrutiny can find a new form in response to the shifting understanding of sovereignty.

In conclusion, the Report provides recommendations as to how to bridge the various conceptions of sovereignty and reconcile them with deeper defence cooperation.

Introduction

The deepening of defence cooperation in Europe will sooner or later infringe upon individual countries' ability to take autonomous decisions. So far, the most extensive progress has been achieved with cooperation in training, education, logistics and the combined deployment of assets. However, the growing responsibility of Europe for security in its own neighbourhood combined with the further decrease of resources available for defence necessitates more and deeper cooperation among European and Transatlantic partners.

The Netherlands' Minister of Defence, Jeanine Hennis-Plasschaert, has made it one of her priorities to involve parliamentarians more extensively in the complex business of further cooperation on defence. She was clear in her speech before the European Parliament on the consequences of closer European cooperation:

(...) such cooperation can only be effective if partner nations are trustworthy and predictable in their responses. Saying 'yes' to military cooperation means saying 'yes' to military participation. (...) It is therefore essential that the members (...) of our national parliaments become truly engaged in this debate.¹

In order to engage parliamentarians they have to better understand the consequences of deepening defence cooperation, which means that they have to be involved from the outset. Moreover, as their role in some countries is crucial in deciding on the use of the military abroad (e.g. Germany and the Netherlands) and is becoming more prominent in others (e.g. in the United Kingdom), they have to be taken on board during the whole process and not just at the point where they can accept or reject the result. This seems contrary to the constitutional role of lawmakers, which is to oversee policies of governments post-hoc. Yet, ex-ante involvement is indispensable to grasp the context and responsibilities involved in far-reaching defence cooperation. This involvement spans the phases from cooperation on procurement to the readiness phase of forces and includes deployments.

The role of the concept of sovereignty in defence cooperation has often been understood as that of a show-stopper, throwing up boundaries for further cooperative options. Simultaneously, however, the concept is increasingly invoked as legitimising further steps in defence cooperation. In that understanding, sovereignty is not just a legal attribute of states, but a quality that must be earned in an interdependent world. This raises questions as to the meaning of sovereignty.

Why does this matter? The sovereignty issue in defence cooperation hinges on a number of concerns. If we pool, share and specialise defence capabilities with other countries and thereby reach various degrees of dependence, can we avoid being abandoned or entrapped and can we quickly decide on deployment? Also, are we able to avoid asymmetric cooperation (one party benefits more than the other) and can we rely on a long-term political commitment and thereby secure our investments? In the debate on defence cooperation the concept of sovereignty is discussed as if the meaning of sovereignty is clear to all.

¹ *Speech by the Minister of Defence, J.A. Hennis-Plasschaert, at the European Parliament (SEDE), 5 November 2013.*

It is first of all important to be aware of the various discourses on sovereignty that feature interchangeably. If this confusion remains, it will be more difficult to find solutions to how various conceptions of sovereignty can be reconciled with deeper defence cooperation. The various conceptions of sovereignty in the Netherlands and its closest partners in defence cooperation also impinge on the extent and possibilities of cooperation. It is therefore highly relevant to understand the differences.

After the two discourses on the concept of sovereignty have been discussed in section 1, the focus will turn to the role of parliaments in the Netherlands and its main partners in defence cooperation, Germany and Belgium (section 2). There are various stages of international defence cooperation ranging from cooperation on training to integrated forces that are deployed together. *Legitimacy* and *trust* are singled out as two elements of central importance to deeper defence cooperation. Therefore, also alternative options where parliaments can be involved in defence cooperation, such as NATO's Parliamentary Assembly and the recently established Interparliamentary Conference (IPC) on the Common Foreign and Security Policy are included (section 3). After some concluding remarks, the Report provides recommendations on how to bridge the various conceptions of sovereignty and reconcile them with deeper defence cooperation.

1 The concept of sovereignty: a tale of two discourses

In recent years the concept of sovereignty has been very much debated, not only in light of defence cooperation, but also in terms of the interdependent state in a globalised, networked world. So-called 'old' and 'new' conceptions of sovereignty have made inroads into the discussion about the role of the state. The *new* sovereignty consists not of territorial control or governmental autonomy, but is defined as 'the capacity to participate in (...) collective efforts to (...) address global and regional problems together with their national and supranational counterparts'.² It is becoming increasingly clear that the concept of sovereignty is not a stable one that holds the same meaning at all times, in all circumstances and geographic locations. Sovereignty is a social and political construct.³ It must be understood in the context of the complex political practices of modern states. Its meaning therefore also differs among various countries.

Many will agree that the role of the state has changed considerably over the last few decades and that therefore the concept of classic national sovereignty does not correspond with the reality of the way a modern state is governed. However, there continue to be two types of discourses on the concept of national sovereignty. Sovereignty as the 'ability to act'⁴ in a modern international system co-exists with the phenomenon that at the same time countries continue to conceive themselves as independent units and strive to preserve their ability for autonomous decision-making. The ultimate decision of a sovereign entity, the state, is *de jure* still the prerogative of the government in power, legitimised and checked by parliament. It is not coincidental that in the debate on deepening defence cooperation the two conceptions of sovereignty are invoked by different parties and often simultaneously. The merging of the two discourses would result in the notion of a state whose sovereignty 'depends on the breadth and depth of its links to other states'⁵ and whose government is held accountable for its ability to find solutions to regional and global problems. However, it must be pointed out that particularly in defence policies accountability and legitimacy are sensitive issues that are well guarded.

2 Abram Chayes and Antonia Handler Chayes, *The New Sovereignty: Compliance with International Regulatory Agreements*, Cambridge, Harvard University Press, 1995, p. 4

3 W.G. Werner & J.H. de Wilde, 'The Endurance of Sovereignty', *European Journal of International Relations*, vol. 7, no. 3, 2001, pp. 283-313; Tanja Aalberts, 'The Future of Sovereignty in Multilevel Governance Europe – A Constructivist Reading', *Journal of Common Market Studies*, Vol. 42, no. 1, 2004, 23-46, p. 33.

4 See for instance: Adviesraad Internationale Vraagstukken, Europese Defensiesamenwerking. Soevereiniteit en handelingsvermogen, No. 78, January 2012; Anne Marie Slaughter, 'Sovereignty and Power in a Networked World Order', *Stanford Journal of International Law*, Vol. 40, 2004, 283-327; Stephen Krasner, *Sovereignty, organized hypocrisy*, Princeton, Princeton University Press, 1999.

5 Anne-Marie Slaughter, 'Disaggregated Sovereignty: Towards the Public Accountability of Global Government Networks', *Government and Opposition*, Vol. 39, no. 2, p. 187.

Even under normal circumstances, developments in defence cooperation demand a delicate balancing act between democratic accountability, on the one hand, and policy effectiveness, on the other. Because defence is perceived as being 'high politics' and therefore vital to the survival of the state, it is an even more jealously guarded field than other policy areas. In times of austerity and growing uncertainty in international security the weighing of *input* legitimacy (participation) against *output* legitimacy (effectiveness) in the area of defence poses a difficult dilemma.⁶

In a simplified triangular figure, the three most important elements that feature in various relations in the two dominant discourses can be depicted as below.

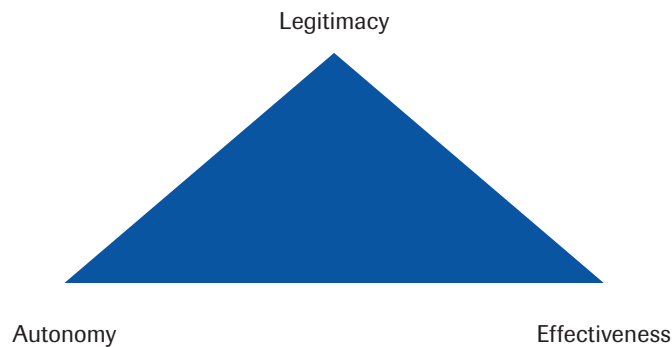


Figure 1: Triangular model of sovereignty

The figure demonstrates an understanding of sovereignty in which the claim of legitimacy can be related to both autonomy as 'independent authority' and to effectiveness as the 'ability to create an effect or the ability to act'. The sovereignty discussion therefore seems to hinge on two interpretations of what is deemed to be 'legitimate'. Firstly, to have independent national authority over defence, which seems a practical impossibility (only consider the dependence of a vast majority of European countries on the nuclear guarantees of the United States). And, secondly, to be able to create policy results, which in the area of defence means to foster security.⁷ The problem with this simplified model is of course that both in theory and in practice the concept of sovereignty occurs in mixed forms.

Because trust among cooperation partners plays a crucial role in avoiding any possible detrimental consequences of dependence, knowledge about the partner countries' conceptions of sovereignty is important. Where do partners stand on the autonomy versus effectiveness spectrum of sovereignty? It stands to reason to argue that countries that have similar conceptions of sovereignty will be better able to work together in the area of defence. The next section is devoted to an analysis of the ideas and practices of three partners in defence cooperation, Germany, the Netherlands and Belgium. The role of parliament in the deployment of forces in crisis management operations, the general attitude of these countries towards international defence cooperation and the issue of sovereignty will be discussed.

⁶ See: Fritz Scharpf, *Governing in Europe: effective and democratic?* Oxford University Press, Oxford, 1999.

⁷ See: Bo Rothstein, 'Creating Political Legitimacy. Electoral Democracy Versus Quality of Government', *American Behavioral Scientist*, Vol. 53, no. 3, November 2009, pp. 311-330.

2 Parliaments and defence cooperation: Germany, the Netherlands and Belgium

2.1 Germany: a reliable shoulder to lean on?

The German troop deployment law was established in 2004. It stipulates that German troops can only be deployed after explicit consent by the German *Bundestag*. Contrary to the obstructive image which the German parliament has internationally, the Bundestag has not rejected a single application by the Government for deploying German troops abroad since the Parliamentary Participation Act came into force in 2005. However, the tensions between domestic democratic accountability, on the one hand, and German solidarity with its partners in NATO and the EU, on the other, remain an issue.

In early 2011, Germany withdrew its personnel from the multinational AWACS (Airborne Warning and Control System) aircraft operating over Afghanistan after it declined a request by NATO because parliamentary approval would not be forthcoming. It also withdrew its crew from AWACS over Libya in the spring of 2011, although it subsequently replaced its personnel for that from other countries in the AWACS fleet over Afghanistan. These episodes have harmed the perception of Germany's reliability when it comes to multinational operations, particularly because normally one third of AWACS crews are delivered by Germany.⁸ The AWACS example is illustrative of the dilemmas of deeper defence cooperation as AWACS is a NATO-owned capability with a multinational crew. Contributing to this crucial capability also comes with a high sense of responsibility, since the withdrawal of personnel can have a crippling effect on capability. The Berlin-based Stiftung Wissenschaft und Politik therefore proposed to separate German participation in AWACS and the Headquarters of the NATO integrated Command Structure from parliamentary involvement.⁹

The German conception of sovereignty when it comes to security and defence can be understood by its practice of giving a central role to parliament in deciding on the use of force by its armed forces. 'Parliament's prerogative' (*Parlamentensvorbehalt*) has been described as the 'holy grail' of German politics and symbolises the redemption of Germany from a dark past. In that sense, a rational calculation of whether this prerogative is conducive to effective defence policies seems almost irrelevant: it is part and parcel of German's post-war political culture. However, another central concept of Germany's foreign and security policy is that of being a trustworthy ally within NATO and the EU, causing friction which time and again fuels the domestic debate.

Most recently, in 2011, the CDU parliamentarian Ernst Reinhard Beck called for a relaxing of the so-called 'Parliamentary prerogative'. He argued that either German participation in the EU Battlegroups, the NATO Response Force and the AWACS should become

8 Ekkehard Brose, *When Germany Sends Troops Abroad. The case for a limited reform of the Parliamentary Participation Act*, Berlin, Stiftung Wissenschaft und Politik, September 2013, p. 5.

9 Brose, *ibid*, pp. 12-13.

more practicable or Germany should abandon these multinational units to avoid rendering them 'blunt'. The following year, in 2012, two prominent CDU parliamentarians, Andreas Schockenhoff and Roderich Kiesewetter, proposed in a strategy paper a reform of the role of parliament. They referred to a 'credibility problem' of German security policies. Similar to Beck's solution, they proposed to introduce a yearly, general parliamentary decision on German participation in integrated military structures, such as AWACS, EU Battlegroups and the NATO Response Force. The executive would then have a right to deploy, while the Bundestag would have the right to recall the troops.¹⁰

Nevertheless, the coalition agreement between the CDU and the SPD of November 2013 underlines that the Bundeswehr is and remains a '*Parlamentsarmee*' and declares its support for the German system by stating that the extensive Parliamentary rights are not a weakness but rather a German strength. The Germans are, however, looking for ways to secure the strong involvement of parliament in the face of increasing defence cooperation and a division of labour with their partners in the EU and NATO. For that purpose, the coalition agreement has the intention to create a commission which is tasked to come up with recommendations on how to reconcile the rights of parliament with increased defence cooperation before the end of 2014.¹¹

This formula of creating a commission is a clear compromise between the CDU and the Social Democrats as there are differences of opinion as to whether the Parliamentary prerogative should be made more flexible. The majority within the SPD are still reluctant to roll back the rights of the Bundestag on this issue. Some cracks in this position are visible, however, as the SPD Chairman and current Vice-Chancellor Sigmar Gabriel said in a speech in 2012 that Germany is prepared to change its constitution for the benefit of creating an effective common European security and defence policy. He was quoted as saying 'even when it is difficult, we have to be prepared, as we have done in other policy areas, to incrementally give up sovereignty in the area of security and defence'.¹²

A gradual shift by German policy makers (although not so much by the German general public) towards a more active role in the world seems to have taken place. At the Munich Security Conference President Joachim Gauck spoke of 'Germans advancing towards a form of responsibility that has not yet become routine for us.' Cautiously he phrased that 'Sometimes it can even be necessary to send in the troops. (...) However, when the last resort – sending in the Bundeswehr – comes to be discussed, Germany should not say "no" on principle. Nor should it say "yes" unthinkingly.' His remarks were in line with Germany's security and political culture, when he said that 'The ability and willingness to cooperate are becoming the defining trademark of international politics. In line with this, responsibility is always shared responsibility.'¹³ In general, the Germans are incrementally contributing more

10 Andreas Schockenhoff and Roderich Kiesewetter, *Europas sicherheitspolitische Handlungsfähigkeit stärken. Es ist höchste Zeit*, 30 May 2012, accessed at: <http://www.roderich-kiesewetter.de/uploads/media/20120530-GSVP-Papier.pdf>, p. 8.

11 *Deutschlands Zukunft Gestalten. Koalitionsvertrag CDU, CSU, SPD*, 18. Legislaturperiode, 27 November 2013, p. 177.

12 Frankfurter Allgemeine Zeitung, *SPD: Parlamentsvorbehalt bei Auslandseinsätzen bleibt*, 28 October 2013 <http://www.faz.net/aktuell/politik/inland/koalitionsverhandlungen-spd-parlamentsvorbehalt-bei-auslands-einsaetzen-bleibt-12638007.html>

13 Joachim Gauck, *Speech to Open the 50th Munich Conference*, 31 January 2014, <http://www.bundespraesident.de/SharedDocs/Reden/EN/JoachimGauck/Reden/2014/140131-Munich-Security-Conference.html>

to the burden of international crisis operations, relaxing their Rules of Engagement and some of their 'caveats'.

As much as the extensive role of parliament is guarded by the Germans, they are relatively open to cooperation with other countries. Since decades Germany has shown itself to be willing to integrate, but in recent years more initiatives for practical cooperation have been taken. Prime examples are the Eurocorps (a German-French initiative, later joined by Belgium, Spain and Luxembourg), a Franco-German Brigade (operational as such in Mali in early 2014), the Multinational North-East Corps (Germany, Poland and Denmark) and the German-Netherlands Corps (consisting primarily of a GER-NL high readiness headquarters). Germany, together with France, took the initiative to establish the now five-nation-strong European Air Transport Command (EATC). The Eurocorps formed the core of the SFOR Headquarters in Bosnia and Herzegovina and KFOR Headquarters in Kosovo. Also, the German-Netherlands Headquarters has been deployed on a number of occasions in Afghanistan.



A Chinook helicopter in action during the 1 (GE/NL) Corps' multinational exercise Peregrine Sword in 2012, source: Netherlands Ministry of Defence

In 2013, the then Minister of Defence, Thomas de Maizière, tabled a proposal with possible consequences for autonomy in defence policy for smaller European countries in particular. This *Framework Nation Concept* by Germany is an initiative to create clusters of cooperation between European countries. In such a cluster, countries with a "broad capability spectrum" will take the lead to pool and share capabilities and tasks.¹⁴ In addition, these clusters will

¹⁴ See also: Maik Zarandi, *Europäische Insellösungen als Fundament einer Stärkung der Europäischen Verteidigungsfähigkeiten*, Perspektiven Deutscher Aussenpolitik, Konrad Adenauer Stiftung, Ausgabe 130, October 2013.

purchase and operate their capabilities together. Germany, France, the United Kingdom and Italy were named as the most likely framework nations.

This understanding of Germany as a framework nation (*Rahmennation*) is reflected in the broad range of defence cooperation the Germans are entertaining with their smaller neighbouring countries. In its defence transformation since 2011, the concept of 'breadth before depth' has been adopted to enable Germany to be a 'broad shoulder to lean on' for other countries with smaller militaries.¹⁵ De Maizière also saw the German-Polish and German-Dutch Declarations of Intent of 27 and 28 May 2013, which deepen bilateral defence relations, in this light.¹⁶ Especially the German-Dutch defence cooperation is turning corners in the sense that, among other things, the two countries are contemplating integrated command and control structures for the integration of the Netherlands' 11 Airmobile Brigade into the new German *Division Schnelle Kräfte*.

The drawbacks to the German framework nation proposal could be that smaller nations which gear their armed forces towards one cluster leader may end up being held hostage to the defence policies of their lead country. Smaller countries may lose their range of choice in choosing partners and clusters and thereby flexibility in their foreign, security and defence policy options. It is therefore not so much German autonomy that is at stake in this proposal, but more that of other nations. It is however not only sovereignty as autonomy that is at stake here, but also the effectiveness element of sovereignty. Consider the example of the Dutch-Belgian naval cooperation in Benesam (see below), which is working well. Could this be reconciled with both Belgium and the Netherlands being part of a German framework nation concept? All these concerns play a role in the run-up to the NATO summit in Wales in September 2014. However, it is already becoming clear that the original German framework nation concept might be watered down considerably with fears that it might divide European allies into advanced and more backward militaries.

2.2 The Netherlands: the two sides of sovereignty

The Dutch Parliament does not have a *de jure* right to decide on the deployment of armed forces, but Dutch governments have made troop deployments *de facto* dependent on approval by a majority of the House of Representatives. The 2011-2013 mission to Afghanistan in Kunduz province, for instance, showed that the coalition was willing to compromise on the mandate of the mission in order to secure majority approval. The procedure concerning the duty to provide information to Parliament in situations in which Article 100 of the Constitution is applicable has evolved in the last twenty years.¹⁷ The assessment framework (*toetsingskader*) which originates from 1995 is comparable to a check-list of political and military issues and conditions that have to be addressed for Parliament to be able to make a balanced decision. The 'Article 100 procedure' applies in cases of the deployment of the armed forces 'to maintain and improve the international legal order', an assignment enshrined in the Dutch constitution.

15 Claudia Major and Christian Mölling, *Synergies between EU and NATO? Specialisation as the litmus test for "Smart Defence" and "Pooling and Sharing"*, No. 12/13, Fondation pour la Recherche Stratégique, May 2013, p. 5.

16 Declaration of Intent between Germany and Poland on Enhanced Maritime Cooperation 27 May 2013; Declaration of Intent between Germany and the Netherlands on the further Enhancement of Bilateral Relations in the field of Defence, 28 May 2013.

17 The assessment framework has been amended in 2000, 2009 and 2014.

The broad and extensive provision of information concerning international deployments has given rise to very active parliamentary scrutiny, going above and beyond the original intentions of the Art. 100 procedure. To accommodate the demands of Parliament, Dutch governments have in practice provided information ‘in the spirit of Art. 100’ concerning deployments that formally were not covered by this article. Operations deployed on the basis of Art. 5 of the NATO Treaty are not subject to Art. 100, although it is increasingly felt that they also fall within the category of ‘maintaining the international legal order’. For instance, in 2012, the deployment of Patriot missiles to the Turkish-Syrian border led to confusion concerning the extent to which the Art. 100 procedure would apply. For these overlapping categories of deployment, the Dutch government has announced in early 2014 that it will treat them as Art. 100 missions. Civilian missions with some military participation are formally also exempt from Art. 100, but are now treated ‘along the lines of the assessment framework’.¹⁸

Participation in international defence cooperation is an ambition that is shared by most Dutch political parties. Two parties at the far end of the political spectrum, the Freedom Party (PVV) on the right and the Socialist Party (SP) on the left, are highly sceptical. The PVV – at the time of writing the biggest in the polls – draws the line at defence cooperation in the EU, while the SP is not against defence cooperation in principle, but is highly critical of initiatives that would diminish Dutch ‘sovereignty’.¹⁹ The issue of sovereignty in connection with defence cooperation has regularly featured in debates in Parliament.²⁰ The current Defence Minister, Hennis-Plasschaert, has made it central to the further deepening of defence cooperation in her debates with Parliament. She strives to involve Parliament in cooperation initiatives at an early stage. This objective is supported by most parties, although there is some scepticism about how this can be implemented in practice. There are doubts whether these informal mechanisms could hollow out the formal rights of Parliament and whether the Minister’s focus on parliamentary involvement does not obscure the government’s own responsibility to deepen defence cooperation.²¹

The Dutch Cabinet emphasizes the double-edged nature of the issue. On the one hand, it reiterates that decisions on the composition and deployment of the Dutch armed forces remain a national, sovereign prerogative. But on the other hand, the government simultaneously underlines that international agreements on the creation of binational or multinational units and the pooling and sharing of military capacities are not without obligations.²² Defence Minister Hennis-Plasschaert has been championing the neglected political and sovereignty dimension of defence cooperation in international forums on a number of occasions.²³

Dutch policy and lawmakers have been concerned about decision-making in cases of multilaterally constituted stand-by forces, such as the EU Battlegroups and the NATO Response Force. The nature of these forces would require a quick reaction which has implications for

18 Ministerie van Buitenlandse Zaken, *Werking Artikel 100-procedure en Toetsingskader*, DVB/CV-010/14, 22 January 2014, p. 3.

19 Jasper van Dijk en Harry van Bommel, ‘SP: “een hoogwaardige krijgsmacht met minder ambities”. Defensie mag na bezuinigingen niet worden overvraagd’, *Atlantisch Perspectief*, No. 5, Vol. 36, 2012, p. 2.

20 Minister van Defensie, *Nota Internationale Militaire Samenwerking*, Tweede Kamer der Staten-Generaal, nr. 33 279, 11 May 2012.

21 Interview with Parliamentarian, November 2013.

22 Tweede Kamer der Staten-Generaal, *Defensieraad. Verslag Algemeen Overleg*, 12 November 2013.

23 Among others: Speech by J.A. Hennis-Plasschaert at the Munich Security Conference, 2 February 2013; Engelstalige toespraak van de Nederlandse Minister van Defensie, Jeanine Hennis-Plasschaert tijdens de Berlin Strategy Conference, 28 May 2013; Speech by the Minister of Defence, J.A. Hennis-Plasschaert at the European Parliament (SEDE), 5 November 2013.

the speed and therefore possibly for the accuracy of the process of information provision to the Dutch Parliament. In these circumstances, it becomes even more important to involve and inform Parliament about participation in stand-by forces and for which possible scenarios these might be used. This is a matter of routine in the Dutch system, but it is doubtful whether the potential implications of taking part in such a stand-by rapid-reaction mechanism is fully understood. The EU Battlegroup consisting of the Netherlands, the United Kingdom, Lithuania, Latvia and Sweden went through an intensive political preparation phase. Before the start of its stand-by period in the second semester of 2013, possible scenarios for crises, procedures and processes were discussed at a high political level. The Dutch Minister of Defence suggested in a discussion with Parliament that in the readiness phase a broader circle could be involved in this pre-stand-by period of an EU Battlegroup. This would involve Parliament to a larger extent and would therefore potentially smoothen and speed up the decision-making processes if and when such a Battlegroup is deployed.²⁴

The Netherlands indeed has experience in sharing in defence cooperation. The Dutch are relatively open to defence cooperation, which is also reflected in support among the Dutch population. A survey in 2013 showed that there is large support for further international defence cooperation, even if this means an increased military dependence of the Netherlands on its partners.²⁵

The Netherlands is particularly looking at its neighbouring countries Belgium and Germany. For example, the Dutch and Belgian Naval fleets have been pooled, while supporting structures and capabilities have been integrated. The European Air Transport Command (EATC) is hailed as an example where pooling can enhance the deployability of capabilities for the participating countries, with minimal concessions to decision-making autonomy. Other examples are the plans to pool capabilities with Belgium for common airspace protection, a Dutch-Belgian helicopter command and a Benelux para. training centre (running from 1 January 2014). With Germany, there is, as mentioned, the high readiness GER-NL Headquarters, the decision to integrate the Airmobile Brigade into the German land forces, establishing a German-Dutch staff on the ground-based air and missile defence units (Patriots) and the integration of German and Dutch fire support units. In the medium term, more cooperation is envisaged in the area of MALE UAVs, Mine Countermeasure Capabilities (also including Belgium) and, in the long term, developing a successor submarine class. In fact, these are only a number of important examples, as the Dutch-German defence cooperation seems to be developing across the board.

2.3 Belgium: a willing partner²⁶

While the Belgian Federal Parliament has to be informed on the deployment of forces, no prior approval is necessary.²⁷ Of the three countries discussed here, Belgium has the least strict parliamentary involvement (see also Table 1 below). However, as the activities of the armed forces have become more and more an instrument of foreign policy in recent years, tentative proposals have been made to increase its role and make prior approval manda-

²⁴ Tweede Kamer der Staten-Generaal, *Defensieraad. Verslag Algemeen Overleg*, 12 November 2013; see also: Ministerie van Defensie, *Internationale militaire samenwerking*, 13 February 2014, 10.

²⁵ TNS/NIPO, *Defensie in Strategisch Opzicht*, June 2013.

²⁶ Many thanks to Kees Homan for his input in this section.

²⁷ Constitution of Belgium, art. 167, para. 1.

tory. Eventually these have not gained much support.²⁸ For instance, a political adviser to the Green Party, Ludovic Bol, underlined that the ministerial responsibility and the traditional means of control of the members of parliament no longer suffice. He proposes that a binding resolution is adopted in Parliament approving any Belgian military participation in an international operation.²⁹

While Parliament has a limited say in dispatching Belgian troops abroad, the Senate has instituted a Special 'Participation in Overseas Missions' Committee for Belgian overseas missions. The members of the Committee and their associates are party to a strict code of secrecy and the sessions are held behind closed doors. The Committee is only involved after the mission has started and is composed of members of both the House of Representatives and the Senate. Besides this Special Committee, the Belgian Federal Parliament has a number of Committees on defence matters. There is the Committee on Defence of the House of Representatives. But alongside this there are also the Committee for Military Purchases (House of Representatives) and the Committee on Foreign Relations and Defence (Senate).

The Di Rupo Coalition Agreement of December 2011 promised to inform Parliament immediately of any future operations and also to involve it more in its follow-up, but no change to the Constitutional arrangement is envisaged.³⁰ In any case, most deployments have been consensual. Except for debates about operations, budgets, and base closures, the level of political attention for security and defence policy is in Belgium traditionally low, resulting in the near absence of debate about key reforms.

Under Minister of Defence André Flahaut (1999-2007), the perception existed that he put too much emphasis on the low end of the spectrum of operations. His successor Pieter De Crem (since 2007) sought to correct this by emphasizing participation in more risky crisis management operations. However, every Defence Minister is constrained by the ingrained risk aversion of the political elite and public opinion alike which can be traced back to Belgium's historical experiences in the two World Wars.³¹

Belgium is prone to international defence cooperation. One reason for this is the relatively small size of the Belgian armed forces and the shrinking Belgian defence budget since the 1990s, which does not leave Belgium with much choice if it wants to retain a meaningful role. The defence budget currently stands at 1.04% of GDP. Belgium has a yearly defence budget of EUR 3.8 billion in 2013, which is almost half the size of that of the Netherlands (EUR 7.7 billion) and is incomparable with that of Germany (EUR 32 billion).³²

A majority in the Belgian Parliament adopted a resolution on the future of the Belgian armed forces in a European context on 8 May 2013. It supports the "pooling and sharing" principle. It also recommends that after consultations with the EU and NATO and after a parliamentary debate, Belgium should invest in a limited number of "niches of excellence", whose capabilities can be made available for common operations. Until now, the government has not

28 Sven Biscop, 'Belgium', in: Heiko Biehl, Bastian Giegerich, Alexandra Jones (editors), *Strategic Cultures in Europe, Security and Defence Policies Across the Continent*, Springer VS, 2013, p. 26.

29 Ludovic Bol, *Speaking notes*, Conference on Parliamentary Control organized by the Centre for European Security Studies (Groningen), in Tbilisi, Georgia, 6 June 2013.

30 Belgische regering, *Regeerakkoord 1 december 2011*, Brussels, <http://archive.dirupo.belgium.be/regeerakkoord>

31 Biscop, *ibid.* p. 39.

32 IISS, *The Military Balance*, 114:1, 2014, p. 486.

used this resolution as a base for the future of Belgian defence.³³ Others have been critical of Belgium's tendency to be a staunch supporter of European pooling and sharing initiatives in principle, but to lag behind in implementing these principles.³⁴ The Belgian presidency did indeed push successfully for the Ghent initiative in November 2010 for 'pooling and sharing'. Despite the willingness of the Belgians to hand over their sovereignty in defence cooperation, they are criticized at the same time for their inability to develop policies to put this into practice.

Belgium is nevertheless involved in a multitude of initiatives in which the Netherlands, France and Luxembourg are the main partner countries. In the field of defence cooperation, the Belgian-Dutch Navy Cooperation (Benesam) is a good example of bilateral cooperation. This is most apparent in the manner in which the cooperation in respect of frigates and mine countermeasure vessels is arranged. The basis for this cooperation is the use of the same platforms. Both the Netherlands and Belgium have the same multipurpose frigates and mine hunters. The agreed division of responsibilities between them is that Belgium maintains the mine hunters and provides for the training of their crews, and the Netherlands does the same for the multipurpose frigates and their crews. Although they share an operational headquarters in Den Helder (NL), the Netherlands and Belgium still decide entirely independently of each other on the operational deployment of their vessels with their own crews. Common facilities for education and training, for logistics and maintenance do not encroach upon national sovereignty in decision-making on deployments. For example, both countries decided during the Libya crisis in 2011 to pull out their respective national crew members from each other's vessels.



Belgian C-130 military transport aircraft, functioning, among others, under operational command of the EATC in Eindhoven, source: [wikipediacommons](#).

33 E-mail correspondence with Captain Pieter-Jan Parrein.

34 Biscop, *ibid.* p. 38.

Benesam is the benchmark for the reinvigorated Benelux defence cooperation after the Benelux Declaration on cooperation in the field of defence of 18 April 2012. This Declaration has provided a new impetus to deepen and widen this cooperation. Twelve project Working Groups are working on, for example, a Combined Joint Helicopter Command, Cooperation in the area of Air Defence Control and Quick Reaction Alert and a Benelux Para. Training Centre. The Belgian internal divisions into Dutch-speaking Flanders and French-speaking Wallonia add another political dimension to cooperation with the Netherlands. Due to this complicated issue, the Belgian government has to balance deeper defence cooperation with its northern partner with projects with its southern neighbour.

Table 1: Overview of parliamentary powers concerning the deployment of troops abroad

	Prior approval to send troops abroad	Approval of a mission’s mandate	Approval of operational issues*	Right to visit troops abroad	Decision on the duration of the mandate
Belgium	No	No	No	Yes	No
Germany	Yes	Yes	Yes	Yes	Yes
The Netherlands	No (de facto: yes)	Yes	Yes	Yes	Yes

*Rules of Engagement, command and control, etc.

3 The inter-parliamentary dimension of defence cooperation

A key element in facilitating deeper defence cooperation and accepting dependencies is trust among partners. To build trust requires personal contact, reliability proven by practice and an understanding of the motives and obstacles of a partner country. Learning about each other's cultural-political attitudes and sensitivities as well as the formal and material obstacles to cooperation are important. As a matter of course, policy makers and officials from cooperating countries see each other regularly. The intensification of contacts among European policy makers, however, is not matched by increased contacts between parliaments.

As defence cooperation in clusters of countries is progressing more quickly and is more ambitious, the first priority of involving parliamentarians lies here. There are already a number of bilateral meetings taking place between defence committees of partner countries. However, these have an ad-hoc character and suffer from underfunded parliaments and full parliamentary schedules. At irregular intervals, there are, for example, bilateral meetings between the Belgian and Dutch Parliamentary Defence Committees. In June and November 2013, for instance, meetings took place. Concerning the meeting in The Hague, a Member of the Dutch Defence Committee remarked that only Dutch-speaking Belgian parliamentarians turned up.³⁵ Particularly countries working together on a whole range of defence cooperation initiatives (clusters of cooperation) should consider adding a serious parliamentary dimension to this cooperation.

It can be argued that with the abolishment of the WEU Assembly (1954-2011) the opportunities for discussions on defence matters by European lawmakers have dropped. Despite that the WEU Assembly is often criticized, it nevertheless had developed into a parliamentary body specialized in security and defence. It had an independent secretariat in Paris and a separate budget, with two plenary sessions; active committees paying working visits; written questions to the Council and extensive reports on a variety of security issues resulting in recommendations.³⁶ Apart from the fact that there was no longer a Western European Union, one of the main arguments for abolishing the Assembly was that the contributing countries were no longer willing to pay the costs. There was a consensus that the CSDP needed some kind of 'light' parliamentary dimension, but at the same time the Member States were not willing to grant the European Parliament more powers in this field.

The Interparliamentary Cooperation (IPC) on CFSP, created after much disagreement on its role and composition, can be regarded as a much watered-down successor to the WEU Assembly. The eventual decision was based on a compromise entailing that the IPC is based on low institutionalisation, no emphasis on the exercise of scrutiny, decision-making

³⁵ Raymond Knops, MP Christian Democrats (CDA), remark during a General Consultation on preparations for the European Defence Council of 20-21 February, 18 February 2014.

³⁶ Wim van Eekelen, *Democratic Control of the Armed Forces. The National and International Parliamentary Dimension*, Occasional Paper No. 2, DCAF, Geneva, 2002, p. 35.

by unanimity and the non-binding character of adopted conclusions.³⁷ It is based on Art. 10 of the Lisbon Treaty and is a platform in which the 28 national parliaments and the European Parliament are represented.³⁸ The first meeting was held in Cyprus in September 2012 and as chairmanship is in the hands of the EU chair, the next meetings will be in Greece and in Italy. Discussions on the exact set-up of the IPC are still ongoing. France is most in favour of a firmer institutional base for the IPC. Interestingly, within the framework of the IPC, the Dutch delegation has taken the initiative to table a position paper for the meeting in Athens in early 2014 on parliamentary procedures for the deployment of armed forces. It is a first attempt to exchange views on the various procedures and practices across the EU.³⁹



IPC-meeting in Dublin, 2013, source: Irish presidency website.

Cooperation between national parliaments and the European Parliament, as is occurring within the IPC, can have clear advantages. The EP and national parliaments complement each other. The EP is responsible for the non-military budget of CFSP/CSDP and aims at scrutinizing these policies by means of supervising the High Representative and the European External Action Service. Also, it can obtain access to security documents at the European level.⁴⁰ The European Parliament is in a better position to scrutinize comprehensive security policies, such as the policy areas of development, human rights, democratization, trade and internal security. While the European Parliament brings a comprehensive perspective,

37 Jan Wouters and Kolja Raube, *Europe's Common Security and Defense Policy: The Case for Interparliamentary Scrutiny*, Working Paper no. 90, Leuven Centre for Global Governance Studies, Katholieke Universiteit Leuven, 2012, p. 7.

38 *Rules of Procedure of the Intern-Parliamentary Conference for the Common Foreign and Security Policy and the Common Security and Defence Policy*, 9-10 September 2012.

39 *Position Paper on the parliamentary procedures regarding decision-making on deployment of armed forces*, The Hague, 3 September 2013.

40 Dorota Liszczyk, *Dealing with the EU Democratic Deficit: Lessons from the Interparliamentary Conference for CFSP/CSDP*, Polish Institute of International Affairs, Bulletin No. 53 (506), 2013.

the various Member States offer a comparative perspective on defence policies, capability generation, and defence cooperation.⁴¹

The European Parliament's powers do not formally extend to the areas of Common Foreign and Security Policy and the Common Security and Defence Policy. According to the Treaty on the EU, 'the High Representative shall regularly consult the European Parliament on the main aspects and basic choices (...) and to ensure that the views of the European Parliament are duly taken into consideration.'⁴² Still, the EP's Committee on Foreign Affairs is regarded as a high-profile Committee and its sub-committee on Security and Defence (SEDE) is highly active. SEDE has developed the practice of discussing CSDP matters, organising hearings with high-level officials, embarking on field trips to EU missions and headquarters, having interpellations, voting on resolutions and issuing reports.⁴³ In addition, European Party groups, such as the Party of European Socialists (PES), the European People's Party (EPP) and the Alliance for Liberals and Democrats for Europe (ALDE) are forums in which national and European parliamentarians meet. On occasion, although not systematically, the security and defence field is the subject of discussions as well.

Also NATO has a parliamentary dimension. The NATO Parliamentary Assembly was created in 1955. It is an established organisation with a secretariat in Brussels. Although it was not based on the Washington Treaty, it developed into a complete Assembly structure with committees, a Secretary-General with a competent staff drafting reports and resolutions, to which the Secretary-General of NATO replies with substantive comments. The NATO PA has been of use particularly in fostering contacts between European parliamentarians and parliamentarians from across the Atlantic and has on occasion been influential, such as in the debate on NATO enlargement.⁴⁴ If parliaments are serious about becoming involved in defence cooperation from their specific role and perspective, the NATO PA should be taken seriously and could also serve as a model for the fledgling IPC.

41 Wouters and Raube, *ibid.* p. 19.

42 Art. 36 TEU.

43 Dirk Peters, Wolfgang Wagner and Cosima Glahn, *Parliamentary Control of Military Missions. The Case of the EU NAVFOR Atalanta*, RECON Online Paper, 24, 2011, p. 13.

44 Hans Born and Heiner Hänggi, *The 'double democratic deficit'. Parliamentary Accountability under International Auspices*, Ashgate Publishing, 2004, p. 128.

Conclusion

This report found that nowadays there are two discourses on sovereignty and defence cooperation. Sovereignty as ‘independent authority’ and sovereignty as ‘the ability to act’. Both understandings depend on legitimacy as the decisive factor. On the one hand, legitimacy because the state has decision-making autonomy scrutinized by national parliaments. On the other hand, legitimacy, because the state is effective in delivering results in a modern, international context. To make clear that everybody is on the same page when the ‘sovereignty issue’ is being discussed, these two variants of the debate should be unravelled. From comparing these two discourses it follows that parliaments have a crucial role to play in order to have the best of both worlds: extensive parliamentary involvement without diminishing policy effectiveness.

It can be argued that countries that have similar conceptions of sovereignty will be better able to work together in the area of defence. In section 2, the ideas and practices of three partners in defence cooperation, Germany, the Netherlands and Belgium, were examined. Where on the ‘old’ and ‘new’ spectrum of sovereignty do these partners stand? The level of parliamentary control over the deployment of the armed forces of the three countries all fall into different categories. According to a categorisation by Wolfgang Wagner, Belgium has a low level, the Netherlands a medium level and Germany a high level of parliamentary control.⁴⁵ However, in practice, the three countries are moving closer in that there are trends towards facilitating German international defence responsibilities with its strict parliamentary control, the Netherlands’ practice on deployments increasingly belongs to the high level of control and in Belgium more voices are raised for more parliamentary involvement. In general, all three are open to defence cooperation, although the differences in size, financial leeway and domestic sensitivities are slowing progress down. The Dutch and the Belgians as well as the Dutch and the Germans are proceeding to deeper levels of defence cooperation beyond pooling and sharing. Traditions of sharing sovereignty in the last decades and high levels of trust have made this possible. The three countries can therefore be placed relatively close to the ‘new’ end of the sovereignty spectrum. It remains to be seen, however, to what extent current plans will be executed and if the understanding of sovereignty can be further reinterpreted.

This report argued that trust is a key element to reach deeper defence cooperation and to accept dependencies. Building trust requires personal contact and gaining an understanding of the motives and obstacles of a partner country. Obvious forums for national and European parliamentarians to meet each other are the existing interparliamentary bodies: the NATO Parliamentary Assembly and the new Interparliamentary Cooperation on CFSP. Also European Parliamentary groups can be important. However, it needs to be underlined that it is crucial to develop parliamentary dimensions to the smaller setting of clusters of defence cooperation. These can develop into places where parliamentary scrutiny can find a new form in response to the shifting understanding of sovereignty.

⁴⁵ Wolfgang Wagner, *Parliamentary Control of Military Missions. Accounting for Pluralism*, DCAF, Geneva, 2006, p. 5.

Recommendations

- For defence cooperation to move forward, the two discourses on sovereignty need to be merged. In doing so, awareness needs to be raised about alternative methods of accountability and legitimacy. Important elements for alternative accountability and legitimacy are transparency on defence cooperation policies by governments, extensive information-sharing at early phases of cooperation initiatives and more trust-building contacts with partner countries (across policy-makers, parliamentarians and think-tanks).
- The focus of parliamentary involvement in defence cooperation should not be confined to the eventual deployment of troops, but should include procurement and readiness phases of forces as well.
- Transform the EU Battlegroups from a military-operational force readiness project into one that adds (informal) political consultation. In the run-up to the stand-by period, sessions can be organised involving Ministers, (civilian and military) staff and parliamentarians from the participating countries discussing, for example, possible scenarios for the deployment of the Battlegroup.
- Add a parliamentary dimension to the German-Dutch and Benelux defence cooperation by facilitating regular information exchange, working visits and meetings of the relevant committees. Think-tanks could play a facilitating role in this. Joint sessions between the governments and parliaments of partner countries can also be envisaged.
- Broaden the cooperation between partner countries to include think-tanks, the media, and stakeholders such as military unions in studies, meetings and working visits.
- Adding a parliamentary dimension to defence cooperation in clusters of countries is first and foremost the responsibility of the parliaments themselves. Governments that are seeking to deepen defence ties have a clear interest in improved cross-border parliamentary understanding and trust-building, but can only be facilitators.
- Strengthen the IPC institutionally and create, analogous to the NATO-PA, rapporteurs with mandates to report on key issues that are presented to the Council of Ministers.
- Include in the programmes of the countries chairing the EU a parliamentary dimension on European defence to facilitate more working visits, exchanges and dialogue.

List of abbreviations

ALDE	Alliance for Liberals and Democrats for Europe
AWACS	Airborne Warning and Control System
Benesam	Belgian-Dutch Navy Cooperation
CDU	Christian Democratic Union
CFSP	Common Foreign and Security Policy
CSDP	Common Security and Defence Policy
EATC	European Air Transport Command
EP	European Parliament
EPP	European People's Party
EU	European Union
IPC	Interparliamentary Cooperation
NATO	North Atlantic Treaty Organisation
NATO-PA	North Atlantic Treaty Organisation-Parliamentary Assembly
MALE UAVs	Medium Altitude Long Endurance Unmanned Aerial Vehicles
PES	Party of European Socialists
PVV	Freedom Party
SEDE	Subcommittee on Security and Defence European Parliament
SP	Socialist Party
SPD	Social Democratic Party Germany
WEU	Western European Union