

THE NETHERLANDS AND CRISIS MANAGEMENT

THREE ISSUES OF CURRENT INTEREST

No. 34, March 2004

Members of the Advisory Council on International Affairs

Chair F. Korthals Altes

Vice-chair Professor F.H.J.J. Andriessen

Members A.L. ter Beek
Professor G. van Benthem van den Bergh
Dr O.B.R.C. van Cranenburgh
A.C. van Es
Professor W.J.M. van Genugten
Dr B. Knapen
Professor A. de Ruijter
E.M.A. Schmitz
H.M. Verrijn Stuart

Secretary P.J.A.M. Peters

P.O. Box 20061
2500 EB The Hague
The Netherlands

Telephone + 31 70 348 5108/6060
Fax + 31 70 348 6256
E-mail AIV@minbuza.nl
Internet www.AIV-Advice.nl

Members of the working group on crisis management operations

Chair General A.K. van der Vlis (retd.)

Members A.L. ter Beek
Professor G. van Benthem van den Bergh
Dr A. Bloed
Dr P.P. Everts
Professor F.J.M. Feldbrugge
Lieutenant General G.J. Folmer (retd.)
Professor B. de Gaay Fortman
B.T. van Ginkel
A.P.R. Jacobovits de Szeged
Professor K. Koch
Rear Admiral R.M. Lutje Schipholt (retd.)
Dr C.M. Megens
Lieutenant General H.W.M. Satter (retd.)
Professor B.A.G.M. Tromp

Secretary P.J. Genée

Table of contents

Foreword

I	Current developments in crisis management: a survey	7
I.1	Introductory remarks on the request for advice and definition of terms	7
I.2	The security situation - developments over the last ten years	8
I.3	Trends in crisis management: the United Nations	9
I.4	National and international instruments in a changing environment	11
I.5	Back to the request for advice	13
II	The organisation of the armed forces	14
II.1	Introduction and questions	14
II.2	Definition of terms	15
II.3	Existing policies: principles of the Budget Day letter	16
II.4	The AIV's views on the policies formulated	17
II.5	Available capabilities	18
II.6	Political consequences of deployment at the higher end of the spectrum	21
II.7	Conclusions and recommendations	22
III	National decision-making procedures concerning participation in international military forces	23
III.1	Introduction and questions	23
III.2	Statutory and policy frameworks for decision-making on deployment: Articles 97 and 100 of the Dutch Constitution and the Frame of Reference	23
	<i>III.2.1 The Constitution</i>	<i>23</i>
	<i>III.2.2 The Frame of Reference</i>	<i>25</i>
III.3	Various types of international military force	26
	<i>III.3.1 The United Nations</i>	<i>27</i>
	<i>III.3.2 NATO</i>	<i>28</i>
	<i>III.3.2.1 Generation of a NATO force</i>	<i>28</i>
	<i>III.3.2.2 NATO Standing Forces</i>	<i>29</i>
	<i>III.3.2.3 NATO Response Force</i>	<i>29</i>
	<i>III.3.3 Other multinational military forces</i>	<i>30</i>
	<i>III.3.4 The European Security and Defence Policy (ESDP)</i>	<i>31</i>
III.4	A critical examination of current Dutch procedures	32
	<i>III.4.1 Decision-making in three phases: establishment, allocation and deployment</i>	<i>32</i>
	<i>III.4.2 Overlap between the purposes specified in Articles 97 and 100</i>	<i>33</i>
	<i>III.4.3 'Secret' deployments and speed of decision-making</i>	<i>34</i>
III.5	Conclusions and recommendations	35
	<i>Annex to Section III: Relevant Articles in the Dutch Constitution</i>	<i>37</i>

IV	Peace, security and development cooperation	38
IV.1	Introduction and questions	38
IV.2	The relationship between development cooperation and security and the importance of an integrated approach to conflicts	38
IV.3	Impediments to the practical development of integrated security policies	39
IV.4	More demanding operations are now less frequently conducted by the UN and this makes it even more difficult to achieve an integrated approach	40
IV.5	The impact on Dutch ambitions of the conflict of interests between security policy and development cooperation	42
IV.6	Dutch policy options for the creation of greater flexibility	44
IV.7	Conclusions and recommendations	45
	<i>Annex to Section IV</i>	<i>47</i>
V	Conclusions and recommendations	49
V.1	General background	49
V.2	The organisation of the armed forces	50
V.3	Decision-making procedures	51
V.4	Integrated security policies	53
Annexe I	Request for advice	
Annexe II	Supplementary request for advice	
Annexe III	List of abbreviations	

Foreword

On 29 October 2003 the Dutch government sent the Advisory Council on International Affairs (AIV) a request for advice on developments in the crisis management field and the implications of these for the Netherlands (see annex I). Its request focused on the organisation of the Dutch armed forces, the current state of decision-making procedures and the concept of integrated security policy. On 19 February 2004, the government added a supplementary question concerning the possible overlap between the purposes for which the armed forces may be used, as defined in Articles 97 and 100 of the Dutch Constitution (see annex II). Because this question reached the AIV before it had completed its advisory report, the response to it has been integrated into section III.

To prepare this report, the AIV's Peace and Security Committee (CVV) set up a special crisis management operations working group under the chairmanship of General A.K. van der Vlis (retd., CVV).

The working group included the following members of the CVV: A.L. ter Beek (CVV, chair), Professor G. van Benthem van den Bergh (CVV, vice-chair), Dr A. Bloed, Dr P.P. Everts, Professor F.J.M. Feldbrugge, Lieutenant General G.J. Folmer (retd.), B.T. van Ginkel, A.P.R. Jacobovits de Szeged, Professor K. Koch, Rear Admiral R.M. Lutje Schipholt (retd.), Dr C.M. Megens, Lieutenant General H.W.M. Satter (retd.), Professor B.A.G.M. Tromp and E.P. Wellenstein. It also included Professor B. de Gaay Fortman, a member of the AIV's Development Cooperation Committee (COS). The secretary of the working group was P.J. Genée, and she was assisted by two trainees: J. Denkers and T.J.P. Juhász.

The civil service liaison officers were: B.W. Bargerbos and S. Reyn (Ministry of Defence), and H.P.P.M. Horbach, S. Messerschmidt and J. Flamand (Ministry of Foreign Affairs). The request for advice was also discussed with various other people, including Major General F.A. van Kappen (retd.), R. de Vos and H. Schaper. The AIV is extremely grateful to all of them for their assistance.

In several places, this report refers to earlier AIV reports. These include its 1999 report on the general security situation and its consequences for the Netherlands ('Developments in the international security situation in the 1990s: from unsafe security to insecure safety'). The 1996 report 'Innocence lost: the Netherlands and UN operations' also remains entirely relevant as regards the role of the UN and the Dutch contribution to it. The same is true of earlier AIV reports like 'An analysis of the US missile defence plans: pros and cons of striving for invulnerability' and 'Military cooperation in Europe: possibilities and limitations', to both of which the working group referred in the course of preparing this document.

Recent years have also seen the appearance of numerous Dutch government policy documents which are instructive on the quest for integrated security policy; these include the Africa Memorandum entitled 'Strong people, weak states' and the memorandum on the future thrust of development cooperation policy, 'Mutual interests, mutual responsibilities'. Earlier but still relevant government policy documents include 'A World of Dispute' (1994). Various reports by the UNSG (or parts of them) are also of interest. These include 'An agenda for peace' (1992) and the Supplement to it (1995), and the report on the causes of conflicts in Africa (1998). Where

decision-making procedures are concerned, use has been made of the findings contained in the report of the Temporary Committee on Decision-making on Deployment, 'Departure Point The Hague' (2000). On the role of the UN, the 2000 Brahimi Report and the Supplement to it were both important in offering a critical examination of the organisation's performance.

In this advisory report, the AIV addresses the three specific aspects of crisis management raised by the government in its request for advice. The AIV does not pretend that the report provides a comprehensive overview of the entire crisis management field. Some other relevant issues were considered in the course of the preparatory work but are not discussed in the report itself. One of these is the role of private-sector military enterprises in crisis management operations. The AIV regards this as an appropriate subject for separate consideration in the future.

At the time when this report was concluded, the AIV was also working on separate reports on the closely related subjects of failing states and pre-emptive action.

This report was adopted by the AIV at its meeting on 5 March 2004.

I Current developments in crisis management: a survey

I.1 Introductory remarks on the request for advice and definition of terms

On 29 October 2003, the Dutch government sent the AIV a request for advice entitled 'Developments in crisis management: implications for the Netherlands'. In this request and the supplementary question sent to the AIV on 19 February 2004, the government broaches three very different and complex areas of policy and goes on to pose detailed questions concerning them. The AIV is asked to consider, from the point of view of crisis management operations, the organisation of the armed forces, decision-making on the deployment of military units, and the development and content of an integrated security policy.

This first section of the AIV's report will outline general trends and background issues in order to provide a context for the discussion of these three topics. The matters discussed in it will include developments in the global security situation, trends in peace operations and crisis management operations, trends in the defence sector and associated budgets, and changes in the instruments used by the international community. This survey of the present position will form the background for the consideration of the questions posed by the government.

First of all, there is a need to define the terms used in the government's request and in this advisory report so that there can be no misunderstanding, at least in the context of this report.

Crisis management operation: using military resources to intervene in a situation which jeopardises international peace and security, with the aim of restoring lasting security and order in the situation. This includes military action undertaken under the aegis of the United Nations, but also, in exceptional circumstances, action which is not undertaken under a Security Council mandate.¹ It does not include the many non-military initiatives which are taken to relieve tension and prevent conflicts, but does include all activities of a civilian nature which are designed to support the military component of a crisis management operation.

International community: the community of countries and institutions which form the United Nations (UN). Where this report refers to any other group of countries, it will specify the group by name (NATO, special coalition led by a particular country, et cetera).

Integrated security policy: security policy that recognises the close relationship between the different phases in a conflict (pre-conflict, conflict and post-conflict) and the various actors involved in the search for a peaceful solution during them, whether by military or civilian means. Such a policy must therefore take account not only of the military component of international interventions (concentrated in the conflict and post-conflict phase), but also of their political, humanitarian, socioeconomic, human rights and policing components (in both pre- and post-conflict situations). Other terms sometimes used

1 For further information on circumstances of this kind, see for example AIV report no. 13 on 'Humanitarian intervention', The Hague 2000.

for this are multifunctional approach, multidisciplinary approach or post-conflict peace-building.

1.2 The security situation - developments over the last ten years

Enough has been said in previous AIV reports about the development of the security situation in the 1990s and little has changed in essence since they were published. The content of AIV report no. 10, 'Developments in the international security situation in the 1990s', remains basically valid. The Defence White Paper of 2000 was largely based on the security analysis given in that report and in 2003 the Defence Minister's '*Prinsjesdag*' (Budget Day) letter to the House of Representatives declared that analysis to be still 'largely up-to-date'. Since 1999, however, there have been certain additional developments, particularly in the field of international terrorism, which demand urgent attention. For the sake of completeness, this subsection provides a summary of the main features of the security situation outlined in 1999 and still valid in 2004.

Uncertainty and new threats: In 2004, after the fall of the Berlin wall, the Western world finds itself facing the emergence of new threats and an uncertain trend in new strategic relations. The massive threat posed by the Eastern Bloc has vanished but it is not yet entirely clear what impact the changes following the 'fall of the wall' will have on strategic relations around the world.

However, the nature of the new threats facing the world is gradually becoming clearer. In a security situation in which Western society is increasingly dependent on advanced information technology (and therefore increasingly vulnerable), the emerging threats are from factors such as the proliferation of weapons of mass destruction, the growth in international crime and terrorism, the increasingly complex nature of conflicts, their often domestic character, the increased role of violent non-state actors and the impact of the refugee problem.² The attacks in Washington and New York on 11 September 2001 provided a tragic illustration of the rise of terrorism and non-state actors and the dangers they can represent to western societies (even at a very great distance). Since then, there has been a significant hardening in the international security situation.

Globalisation of security (and threats): Global interdependence has increased and distance has lost some of its power to protect. Tensions originally confined to small, remote areas can expand into conflicts with cross-border or regional impacts and the capacity to affect both our economic interests and our physical security. Problems that appear to have little to do with us – like failing states, a subject that the AIV is currently studying in a separate working group – are directly relevant to our own security, not least because they create a power vacuum in which criminal and terrorist networks can flourish more or less unchecked.

Blurring of internal and external security: These developments have tended to blur the policy distinction between internal and external security. Crisis management and homeland defence are starting to overlap. Our active involvement in developments in countries far outside Europe may therefore – as the Defence Minister's Budget Day letter to the House of Representatives suggests – be necessary to protect our national interests

² AIV report no. 10, 'Developments in the international security situation in the 1990s: from unsafe security to insecure safety', The Hague, 1999.

(our own security), as well as for more idealistic humanitarian and human rights reasons. In this respect, Afghanistan provides a clear illustration. The Taliban regime not only grossly violated the human rights of its own population, but also facilitated the activities of Al-Qaeda. On the other hand, participation in missions in other parts of the world can also create new risks to domestic security.

Changing nature of conflicts: These days most armed conflicts are extremely complex, exhibiting not only inter-state but also intra-state features. Following the fall of Communism in Eastern Europe, conflicts which had been ‘frozen’ for many years by the existence of the Cold War are ‘thawing out’ and flaring up again (e.g. Angola). The problems in such situations are proving to be both vast and enormously complex, especially in the case of so-called ‘failed states’. They may include a complete absence of any effective central authority or democratic structures, the presence of natural resources forming both the focus of armed conflict and the source of funding for it, widespread poverty, food shortages, and lack of health care provision. The combatants are frequently not regular armed forces, but non-state criminal gangs, often with links to the illegal international arms trade. The ferocity of these conflicts (and therefore the risks of intervening in them) can be very great. To be successful, any foreign intervention will make heavy demands on the operational abilities (including the stamina) of any military or other organisation which undertakes the task. In response to this situation – and with the lessons of the sometimes catastrophic peace missions of the 1990s still fresh in our minds – a harder attitude has emerged and the international community is being forced to recognise that, in many situations where it may decide to take action, a heavily equipped mission with a robust mandate will be required, as well as the willingness to keep it in place for as long as necessary.

1.3 Trends in crisis management: the United Nations

Initial optimism: In the period of optimism immediately following the fall of the Berlin wall, there was a sudden surge of crisis management operations. Between 1989 and 1995 the number of peace missions increased considerably, from five to seventeen.³ There was considerable optimism about the UN’s capabilities in the crisis management field, as witness the report by the then UNSG, Boutros Boutros Ghali, entitled ‘An Agenda for Peace’ (1992). During that period, ‘traditional’ peace operations (sometimes called first-generation peace operations) and their instruments were used for a wide variety of military and non-military purposes. The number of multifunctional mandates increased from none in 1988 to four in 1992 and eight in 1994. The UNSG thought that the achievement of lasting peace required a comprehensive, multifunctional approach and, in his ‘Agenda for Peace’, even launched a new term for it: ‘post-conflict peacebuilding’.⁴

Overstretching and over-use of a limited instrument: In some cases (Cambodia and Mozambique), the new operations were successful, but in other cases (Rwanda and initially Yugoslavia) they went seriously wrong. The reasons for this have been analysed in detail, by the UN itself as well as other parties.⁵ The cornerstone principles of peace-

3 Figures from ‘Supplement to Agenda for Peace’ (1995), www.un.org.

4 Agenda for Peace, www.un.org.

5 UN reports on Rwanda and Yugoslavia and the Brahimi Report, www.un.org.

keeping – consent of local parties, impartiality of the peacekeeping force, and use of force only in self-defence – were not always observed when second-generation peace forces were deployed. These operations frequently took place in a ‘grey area’ between consent and non-consent by local parties. In the increasing number of mixed mandates, peace enforcement and peacekeeping frequently overlapped. Traumatic experiences in places like Rwanda (1994), Yugoslavia (1995) and Sierra Leone (1999) obliged the UN to temper its initial optimism and adopt a different approach, of the kind that was later successfully employed in Sierra Leone under British leadership. The tone of the 1995 ‘Supplement’ to Boutros Boutros Ghali’s report was already far more subdued and in 2000 the Brahimi Report contained an extremely critical analysis of the performance of the UN and its member states in the field of peace and security.

Limits to the UN’s capabilities in the field of crisis management: Over the years, therefore, there has been a growing realisation that the UN is not invariably the best organisation to conduct crisis management operations. This is certainly the case when the level of violence is high or may escalate. There are a number of inherent organisational reasons for this. Firstly, the Security Council is not always able to issue sound political and military mandates capable of implementation and well-suited to the military situation in the field. Sometimes, indeed, the Council is unable to issue a mandate of any kind and the result is a vacuum – but that is a separate problem. Secondly, the UN has to contend with major constraints as regards implementation, particularly where the command of missions is concerned. In this respect, the UN is at a disadvantage in having no troops of its own but having to ‘lease’ them from the member states on each occasion, generally subject to unclear conditions regarding ‘command and control’ (the member state always retains ‘full command’) and equipment. In addition, the lack of its own logistical capabilities is frequently an impediment. All in all, the belief has now taken root that the UN can only make a useful contribution if violence has declined to a level it can handle. This is not, however, to suggest that the situation is immutable: it must always be remembered that the powers of the UN to intervene on the ground are dependent on the political will of its member states.

Alternatives for the higher end of the spectrum of force: The experiences of the 1990s have given rise to a trend towards using ‘alternatives’ to the traditional type of peace operation to enable the UN to intervene with sufficient legitimacy even when a higher level of force is required. After all, there is still a need for such intervention. The alternatives can be divided into three categories: firstly, intervention by an ad hoc coalition mandated by the Security Council and led by a ‘major’ country; secondly, intervention by a regional organisation operating under a Security Council mandate; thirdly, the ‘regionalisation’ of security, with each region eventually having its own political mechanism, equipped with a military arm, for dealing with security. For most regions, however, the last option is still something for the future.

Although each of the first two options presents its own difficulties, both are already feasible. The problem, however, is that no operation can take place without a lead nation and that the costs have to be met by the participating countries themselves, whereas the costs of a UN peace operation can be split between all member states in accordance with a special formula. There is also the problem that NATO is currently the only security organisation capable of undertaking such operations. In West Africa, the regional organisation ECOWAS⁶ is now evolving politically and militarily under the

6 Economic Community of West African States.

leadership of Nigeria, but it still has a long way to go before it will be capable of assuming all the tasks of a fully-fledged regional crisis management organisation.

Continuing need for integrated action: However, none of these alternative means of intervening at the higher end of the spectrum of force meet the need for a comprehensive integrated approach. The need for comprehensive missions which the UNSG has identified in his reports still exists and is undiminished. The Security Council, too, has explicitly recognised this fact.⁷ In such situations, the UN has at times resorted to launching a peace operation once violence had been reduced to a manageable level. One example of this was in East Timor, where the UNTAET mission⁸ took over from an ad hoc coalition led by Australia and undertook largely civil duties.

1.4 National and international instruments in a changing environment

Declining budgets, changing needs: The optimism of the period immediately after the 'fall of the wall' resulted in a review of defence sectors. It was the time of the 'peace dividend', and defence budgets were reduced – not only in Western Europe – to take account of it. In the Netherlands, the defence budget was reduced from 2.8% of GNP in 1989 to 1.6% of GNP in 2000, a trend also visible in most of the NATO allies.⁹ European armed forces also faced surpluses in a military apparatus designed to deal with the – now suddenly defunct – Soviet menace. Equipment like the large numbers of tanks in Germany and the Netherlands became surplus to requirements. Different needs emerged, partly because a growing proportion of the armed forces' activities concerned the deployment of military resources for conflict management elsewhere in the world. The Dutch armed forces were reorganised with an eye to crisis management operations. In Europe there was a need for armed forces of a different kind – no longer primarily designed for the defence of national territories but rather to join with allies in implementing tasks elsewhere in the world.

New threats calling for new resources: In addition, new threats gradually emerged, accompanied by a growing conviction that it might be important – not only for idealistic reasons but also from the point of view of national security – to 'go out and meet the threat'. The need for transformation to an expeditionary force was perceived as ever more urgent. Even European countries came to see expeditionary capability as necessary in part for their own self-defence. All this was reflected in NATO's new Strategic Concept issued in April 1999. The document spelt out both the increased importance of crisis management and the development of new threats like terrorism.¹⁰ These new threats pointed to the need to pay renewed attention to 'Homeland Defence' and led some allies (the UK, France and Norway) to reverse the decline in their defence budgets. However, countries like the Netherlands and Germany made substantial further cuts.

Increased need and desire for internationalisation: Given a situation featuring declining funding and rising defence costs, a demanding ongoing range of tasks, a demand for

7 See 'Statement by the President of the Security Council', SC/6618, 29 December 1998, www.un.org.

8 United Nations Transitional Authority in East Timor.

9 www.nato.int.

10 NAC-S(99)65 (see www.nato.int).

transformation and modernisation and a trend towards ever more participation in international operations in other parts of the world, ever-wider cooperation with the allies is called for. This is true not only within the institutional framework of the EU (ESDP) or the organisational structures of NATO, but also in the context of multinational military formations like the GE/NL Corps and the Anglo-Dutch Amphibious Force. Concerted action is also necessary from the point of view of legitimacy – the time is long past when European allies (and certainly a small country like the Netherlands) could embark on solo military adventures abroad. The constraints this imposes on national policy freedom were discussed in AIV report no. 31 ('Military cooperation in Europe') and will be discussed further in section III of this report.

Changes in international instruments: Apart from the developments that it brought within the UN in the last two decades of the 20th century (see subsection 1.2), the new era also had an impact on NATO and the European Union. Both organisations enlarged their memberships to include countries in the former East Bloc. NATO also saw the start of a process of transformation whereby the organisation became more focused on action outside the Euro-Atlantic zone. The increasingly close connection between internal and external security (see subsection I.1) created a material overlap between what the North Atlantic Treaty defines as 'Article 5 situations' and situations which fall outside the scope of that article. Ever since 1998 (the St. Malo Declaration), the EU has been working rather tentatively to develop a European Security and Defence Policy (ESDP), principally inspired by the desire – following experience in Yugoslavia – to enable the Union carry out crisis management tasks in future without the help of the US. Although the ESDP is proving slow to develop, the first deployments under the EU flag are now a fact (operations in Macedonia and Operation Artemis in Congo).¹¹ For its part, NATO is developing – partly as a result of plans for a NATO Response Force – into an organisation increasingly focused on crisis management and the fight against international terrorism. In Afghanistan, the alliance has been given a leading role within a crisis management operation; in August 2003 it took over command of ISAF from the GE/NL Corps.

And elsewhere in the world? Regional security organisations like NATO and (to a lesser extent) the EU, both in Western Europe, have no equivalents in other parts of the world. Conflict-ridden regions like Central and West Africa have as yet no political or military mechanisms with which to resolve their own problems. The desire for security is great in these regions but resources, which must of necessity come mainly from the North, are almost never adequate. It is these very regions that have to make do with the assistance of the UN, despite the complexity of their conflicts and the high level of violence – or the risk of it – that often characterises them. As this report has already made clear, experience shows that the UN's peacekeeping instruments and capabilities on the ground are frequently inadequate to deal with such situations. This places the organisation on the horns of a dilemma, forcing it always to choose the lesser of two evils: either to stand aloof or to intervene with inadequate resources.

Against the background of the lack of security in the South, there is also an emerging trend towards the 'privatisation of security'. An example of this is the use of private-sector organisations like Executive Outcomes to keep order in West Africa. Clearly, this

11 In Macedonia, the EU took Operation Fox over from NATO and the EU's Operation Artemis, headed by France, was used to separate warring parties as part of the UN's MONUC mission, which is supervising the implementation of the peace agreement in the Great Lakes region.

is not without its difficulties. For example, what democratic control can be exercised on the actions of such non-state organisations? As mentioned in the preface, however, issues of this kind are disregarded in this report, whatever their relevance to the problem of peace operations.

The quest for integrated security policies and the link with development. Subsection I.2 mentioned the generally recognised need for integrated security policies. Not one UN member state disagreed with the statements made by the UNSG on this subject in 1992. In 1998 the Security Council repeated the same appeals in its Presidential Statement. And national policy documents have recognised for many years that lasting peace requires not only military assistance but also help with the reconstruction of the economy, infrastructure, judiciary, police, and democratic institutions. It is easy to say but, alas, more difficult to put into practice. There are still no truly integrated security policies, even at national level and certainly not at international level.

I.5 Back to the request for advice

So far, this report has outlined the background against which the AIV intends to address the questions posed by the government on 29 October. The three questions are not as disconnected as may at first sight appear. Even so, as already stated, the AIV does not claim that its discussion of them provides a comprehensive overview of the entire crisis management field. This could not possibly be achieved in the time available. Section II discusses Dutch security policies and the Dutch armed forces, of necessity taking as its starting-point the ambitions and resources outlined in the Minister's Budget Day letter to the House of Representatives. Section III considers ways of optimising national decision-making procedures; in doing so, it examines the 'Frame of Reference for decision-making for the deployment of military units abroad' and takes the fullest possible account of the supplementary question posed by the government on 19 February 2004. Finally, section IV addresses the issue of what should be done in order to arrive at genuinely integrated security policies. In doing so, it takes account of the government's specific questions about OECD criteria and the Stability Fund.

II The organisation of the armed forces

II.1 Introduction and questions

The first question in the request for advice is to what extent the 'heavier' nature of crisis management operations calls for further changes in the Dutch armed forces. In particular, the government asks whether priority should be given to reorganising the armed forces to give them the capability to take part in 'initial entry' operations, as well as to contribute to 'follow-on' operations, including stabilisation activities. The question assumes that future crisis management operations will be more demanding. The arguments supporting this assumption are given in the introductory section of the request. In particular, the government perceives a hardening in the environment in which crisis management operations have been conducted in recent years. In this respect, the government points above all to the risks involved in interventions in intra-state conflicts.

Generally speaking the AIV endorses the view that a 'harder track' has emerged. The need to recognise this was demonstrated by events in the 1990s, when traditional peacekeeping operations were used to intervene in complex conflicts of this kind.¹² The AIV would add that this development is not exclusively due to the intra-state character of conflicts: the phenomenon of international terrorism, which has emerged particularly in the last couple of years, is another major factor. It may complicate the conduct of crisis management operations because of the risk of reprisals either in the field of operation or in the homeland. Whether it does so will depend very much on the nature and purpose of the operation. However, international terrorism is also a threat in itself and may for that reason provide the motivation for international action. So although the AIV endorses the perception of a trend in this direction, it would add that the more traditional type of peace operation, usually undertaken under the aegis of the UN, has not disappeared. Such operations will remain important because they help to guarantee stability in areas where tensions have the potential to produce outbursts of violence.¹³ The frequently long duration of traditional peace operations must in many cases be regarded as inevitable.

The change in the nature of certain crisis management operations leads to the general question of to what extent this calls for further changes in the Dutch armed forces. The word 'further' refers, of course, to the sweeping measures already announced in the Minister's Budget Day letter to the House of Representatives. These measures will do much to determine the shape of the armed forces for the next ten years. The AIV does not think that this is a good time to offer its own advice on the radical reorganisation of the armed forces. After all, the Budget Day letter contains a major package of sweeping structural changes which must be regarded as a *fait accompli* and which will demand a huge amount of attention and effort for some years to come.

¹² Producing the failures in Rwanda, Somalia and, to some extent, Bosnia.

¹³ Traditional peace operations are peace operations conducted in accordance with the principles of peace-keeping: non-violence except in the case of self-defence, neutrality, and the consent of the parties involved.

The general question goes on to focus on the issue of whether priority should be given to reorganising the armed forces to give them the capability to take part in 'initial entry' operations, as well as to contribute to 'follow-on' operations, including stabilisation activities. This section will discuss the exact meaning of these terms (subsection II.2). Thereafter, it will recall what the AIV has said on this question in the past, describe the level of ambitions with regard to crisis management operations and, finally, spell out the views of the AIV with regard to the consequences of the course already plotted by the government's plans for the re-organisation of the armed forces contained in the Budget Day letter.

II.2 Definition of terms

The terms 'initial entry' and 'follow-on', used in the request for advice, are derived from the NATO concept underlying the establishment of the NATO Response Force (NRF).¹⁴

The purpose of an initial entry operation is to create a bridgehead in the area where deployment is to take place and to provide protection for the deployment of follow-on forces. Speed and flexibility are essential. An important feature of such operations is that little or no Host Nation Support is likely to be available in the deployment area. This means that logistical support has to be organised from outside. It is conceivable that local people will often welcome the arrival of NATO troops, but opposition cannot be ruled out. It must be realised that the NRF will be relatively small in size. This means that fairly modest objectives must be set for NRF participation in any initial entry operation. In planning such operations, the principle must be that the NRF can only be used as an initial entry force in a high-risk area if no large-scale organised military resistance is expected and if the NRF will not have to fight its way in.

Any initial entry operation will, of course, be viewed as a joint operation, potentially involving the deployment of a wide range of resources, including mechanised units.

The term 'follow-on' operation is not explicitly defined in the NATO doctrine. The AIV defines the term as: an operation directed at the completion of the alliance's mission in the area concerned. The relationship between the two types of operation is therefore primarily sequential: 'follow-on' forces can only be deployed once the 'initial entry' has at least secured a bridgehead. The tasks of follow-on forces may consist both of further combat duties and of stabilisation, restoration and post-conflict reconstruction.

It is important to note that the terminology employed, although derived from NATO doctrines, has a more general validity. The EU is also working to establish a response force which may eventually operate in similar ways to the NRF. A multinational operation under the leadership of a major nation will likewise proceed in much the same way as proposed by NATO.

Moreover, it is important to point to the existence of other terms used to refer to similar

¹⁴ The NRF will consist of 20,000 military personnel and will be expected to have the ability to deploy extremely quickly, normally outside the territory of NATO member states. The NRF will be usable for the full range of missions which may be undertaken by NATO. Its tasks may include the support of civilian organisations dealing with natural disasters and other serious incidents, the evacuation of civilian personnel of international bodies and of military personnel, and peace enforcement operations.

concepts. For example, the Budget Day letter speaks not of 'initial entry' and 'follow-on' but of the 'upper end of the spectrum of force' and the 'lower end of the spectrum of force'. The two pairs of terms do not entirely overlap. The first pair refers to the aims of the operation, whereas the second describes the circumstances in which the operation has to be conducted. An 'initial entry' can be effected at both ends of the spectrum of force, as can a 'follow-on' operation. In the context of this report, it is also important to note that participation in an initial-entry operation means that troops will be involved at the start of the operation. The political significance of this is that the Netherlands will share the risks and uncertainties associated with this initial phase of the undertaking with other countries.

II.3 Existing policies: principles of the Budget Day letter

The Budget Day letter from the Minister and State Secretary for Defence to the House of Representatives formulates a number of policy principles relevant to the subject of this report. These include not only general principles and ambitions for the Netherlands, but also their translation into budgetary resources.

The government indicates that the Netherlands intends to pursue an active peace and security policy. Given the recent developments in the international security situation, this will have to include a willingness to intervene at an early stage in crisis situations around the world (albeit, of course, as part of an international operation).¹⁵

International relations are now being shaped by new threats, such as the proliferation of weapons of mass destruction and their delivery systems. In many parts of the world, instability has tended to increase rather than decrease over recent years. The Budget Day letter concludes that active involvement in developments in countries outside Europe will also benefit the domestic security of the Netherlands.¹⁶

The Budget Day letter describes a revised level of ambition (compared with that of the early 1990s), 'at the upper end of the spectrum of force'. Ministers continue to believe that the Netherlands must have the capability to contribute a brigade, or its equivalent, to a peace enforcement operation (i.e. an operation at the upper end of the spectrum of force) lasting up to one year.¹⁷ Moreover, it must be able to do so without having to mobilise reserve units. (This is, of course, in line with the decision to disband such units). The level of ambition for the higher end of the spectrum of force will be modified for the airforce and naval equivalents. The maximum air force contribution will be reduced from three squadrons to two and the naval contribution from a task force comprising between six and eight frigates to a maximum of five frigates.¹⁸

Operations 'at the lower end of the spectrum of force', aimed at stabilisation and the reconstruction of former conflict areas and generally undertaken under the aegis of the

¹⁵ See letter from the Minister and State Secretary for Defence entitled 'Towards a new balance: The armed forces in the coming years', 16 September 2003, p. 8.

¹⁶ Idem, p. 11.

¹⁷ Idem, p. 24.

¹⁸ Idem, p. 25.

UN, will – according to the Budget Day letter – continue to be just as important as in the past. The government sees no reason further to reduce the level of ambition with regard to these operations.¹⁹ In principle, the armed forces must have sufficient sustainability capability to maintain such operations for an indefinite period.

For example, they must be capable of contributing to the NRF.²⁰ Burdens and risks must be shared with other countries.

These principles show that the government has decided that the Netherlands wants to contribute to future international operations in both the ‘initial entry’ and the ‘follow-on’ categories, without at the moment wishing to specify an explicit order of priority between the two.

II.4 The AIV’s views on the policies formulated

In 1999, in the run-up to the Defence White Paper 2000, the AIV gave its advice on developments in the international security situation and the consequences of these for the Dutch armed forces.²¹ Subsequently it reported more specifically on the American plans for missile defence.²² That report contained a detailed discussion of developments relating to the threat posed by weapons of mass destruction and the associated delivery systems.

Since 1999, the main change has been the emergence of a clear threat from international terrorism (although the early signs of this had been identified before and the AIV discussed the issue in some detail in the previous reports). The AIV notes that, despite the operations in Afghanistan and Iraq, the seriousness of this threat has not diminished. In the Budget Day letter, the government says that, although there is no longer any fear of a large-scale conventional attack on NATO territory, many other kinds of risks have increased. The AIV firmly endorses this conclusion. It is the increase in those risks that explains the changing nature of crisis management operations.

In report no. 10, the AIV wrote that defence policy is shaped primarily not by the international security situation, but by the government’s ambitions.²³ These are clearly spelt out in the Budget Day letter and are taken by the AIV as its starting-point for this report.

In 1999 the AIV noted that, in thinking about the development of Dutch security policy, it was impossible to draw any hard and fast distinction between crises and tensions at the lower and upper ends of the spectrum of force; the two sorts of crisis could easily

19 Idem, p. 25.

20 Idem, p. 26.

21 AIV Report no. 10, ‘Developments in the international security situation in the 1990s: from unsafe security to insecure safety’, The Hague, September 1999.

22 AIV Report no. 28, ‘An analysis of the US missile defence plans: pros and cons of striving for invulnerability’, The Hague, August 2002.

23 Idem, footnote 21, p. 34.

merge and had to be seen as parts of a continuum.²⁴ The AIV feels that this observation is still valid and, indeed, in view of developments in the nature of future crisis management operations, even more true now than it was then. The same reasoning can be applied to the distinction between 'initial entry' and 'follow-on' operations. As observed earlier, the distinction has more to do with objectives and sequentiality than with the level of force involved. For this reason, the AIV concludes that, in the light of the level of ambition formulated by the government, the manpower and equipment requirements of 'initial entry' and 'follow-on' operations do not provide any clear criteria for the establishment of explicit priorities for the reorganisation of the armed forces. In view of the political consequences, however, it seems best to give priority to participation in complex military operations with a high potential level of force, in cooperation with partner countries like the United States, the United Kingdom, Germany or France.

It should be noted here that thinking in the AIV's previous reports – and equally in the 1996 report by the former Advisory Council on Peace and Security (AVV) – was invariably based on the idea that, in view of its position and role in the world, the Netherlands should always play an active part in the international security field. Accordingly, the AIV believes that the Netherlands ought to contribute to 'initial entry' operations. It supports the government's policy of participating in NRF operations of this kind, but does not rule out similar deployments in the context of other coalitions.

II.5 Available capabilities

A balance must clearly be struck between levels of ambition and available resources. The general economic and financial situation has forced the government to make painful cutbacks in the armed forces, subject to the priorities it has set. In a number of operational areas these will lead to a substantial reduction of fighting strength. This is clear first and foremost from the reduction of 12,000 in the total number of armed forces personnel. The term 'fighting strength' is usually used in connection with weapon systems. However, the most important factor is the number and quality of military personnel. The reduction now being envisaged will inevitably mean a substantial loss of knowledge and experience, as well as the obvious consequences in terms of numbers. In addition, cuts are to be made in weapon systems in many operational areas, including frigates, naval patrol aircraft, fighter planes, attack helicopters and tanks. At the same time, intensification will bring improvements in some operational areas: for example, in the readiness capability of the armoured infantry as a result of the establishment of extra companies, the Soldier Modernisation Programme,²⁵ the procurement of extra NBC protective equipment and the expansion of the Commando Corps (albeit by a mere eighty men).

Despite these improvements, the totality of measures announced by the government runs virtually counter to the recommendations made in the AIV report of 1999. That report argued for an increase in multi-year defence estimates with the aim of expanding the strength of the armed forces, converting the mobilisable units into modern

²⁴ Idem, p. 32.

²⁵ This is an updating of the personal equipment of military personnel with operational tasks serving with the Royal Netherlands Army and the Dutch Marine Corps. The new equipment will make soldiers more effective, for example by improving night vision and personal protection.

reserve units and restoring investment without having to dispense with major weapon systems.

Many different scenarios can be envisaged as regards deployment in the context of crisis management operations at the higher end of the spectrum of force lasting for up to one year. Every crisis situation is unique in terms of the nature and location of the conflict, the operational objectives and the security environment. Dutch troops might be deployed as part of an 'initial entry' operation or other form of action by the NRF, but also in the context of other types of coalition with a major country acting as the lead nation. There is little to be gained by examining all these possibilities in detail. The point is that the Dutch government should have access to a broad range of operational capabilities deployable with great flexibility and interoperability in operations of this kind. Because the government has not (with one or two exceptions) chosen to cut complete operational areas, it will still have such capabilities at its disposal, albeit on a smaller scale. The armed forces will continue to have access to a broad range of appropriate resources for deployment both at sea and in coastal waters, on land and in the air, in crisis situations of the kind discussed here.

Where a problem may arise is with the capability to sustain operations over longer periods. In any case, the government has been obliged, in view of the level of its ambitions for the air force and navy, to scale down effort in the higher reaches of the spectrum of force, after having reduced the Netherlands' ability to participate in operations at the lower end of the spectrum of force through measures contained in the Coalition Agreement. Although the reduction of the level of ambitions will, of course, reduce the need for sustainability, the AIV is nevertheless extremely doubtful whether the sustainability capability available in the future will be adequate in view of the conclusion in de Budget Day letter.

A number of points are relevant in this respect. Firstly, the armed forces have important core tasks other than participating in crisis management operations. These include action in the Netherlands Antilles and providing support for civilian authorities dealing with disasters and emergencies. There is also the current hot topic of 'Homeland Defence' against terrorism. The Budget Day letter could not provide clarity on this particular point because no decision on it has yet been taken. It is clear that the various parts of the armed forces will have major tasks in relation to the both civil defence and anti-terrorist action, but so will the National Reserve Corps.²⁶ The AIV endorses the suggestion made in the Budget Day letter that increased attention should be paid to the Corps.

Secondly, simultaneous participation in several different crisis management operations will inevitably affect the sustainability capability available for other operations. Withdrawing from crisis management operations in order to free up capacity is not always an option and in any case takes time, since suitable replacement capacity has first to be found in the international arena. Moreover, it is (of course) politically undesirable to give the impression of being an unreliable ally. In traditional peace operations, these problems can usually be resolved, at least in the case of the Army and Marine Corps, because it is relatively easy to rotate and replace units. Where operations take place in the higher reaches of the spectrum of force, this will be more

²⁶ The National Reserve Corps comprises over 2000 voluntary reservists with strong regional ties. They are used principally for light infantry tasks such as protection and surveillance, www.natres.nl.

difficult because of the particular weapons and equipment needed by combat units.

Deployment is further limited by training cycles. It is not only individuals, but also entire units that need to be given training. In the latter case, moreover, the integration of various different operational levels plays an important role. All this takes time and must be repeated from time to time in order to maintain deployability. Finally, factors like recruitment, speed of rotation and replacement and logistical deployability have a heavy influence on operational deployability. It is regrettable, therefore, that the cuts in the numbers of frigates, fighter aircraft and air bases announced in the Budget Day letter mean that, despite the activation of mechanised brigades, the traditional triple rotation method will have to be abandoned, even though it is so vital to ensure sustainability. This will not be without its consequences. After all, appropriate implementation of tasks and the need to keep the length of deployment acceptable to personnel and their families make it extremely desirable to ensure that there are three units of the same kind both for some specific duties and for the most common tasks. During prolonged participation in missions, it is then possible to rotate units between a period of mission performance, a period of recuperation following participation (return to normal duties, training, maintenance, et cetera) and a period of preparation for redeployment. This approach makes it possible to participate in operations for longer periods, especially in cases where participation is unexpectedly extended for political reasons.

In the debate on capabilities, it must not be forgotten that NATO and the EU are both undergoing enlargement. This is giving them access to other countries' operational capabilities (such as light infantry), which can usefully be deployed at lower levels in the spectrum of force. The AIV does not see this as an argument for the Netherlands to cease its participation in traditional peace operations, but it does recommend the deployment of Dutch armed forces in those fields where there is most demand for their advanced capabilities (in other words, in operations which demand high levels of skill and experience and sophisticated resources, and which present the opportunity to work flexibly and with a substantial degree of interoperability with military units from other countries. These qualities are especially necessary where troops are deployed in the complex situations likely to occur at the higher end of the spectrum of force.

In this context, the AIV would sound several notes of caution with regard to quality. A particular problem when deploying formations like the NRF is likely to be the lack of strategic resources in fields such as air and sea transport, intelligence gathering and command and control. The Netherlands does what it can in these fields, but the countries of Europe could in general be expected to do more. This is not possible, however, without the allocation of greater financial resources. In addition, there is a steadily growing technology gap between Europe and the United States. Europe need not necessarily have the same capabilities as the US, but it is important that interoperability should be preserved within forces like the NRF. This demands further investment in fields like Network Centric Warfare.²⁷

27 Network Centric Warfare means operating in a linked network of advanced weapons, sensor, information and command systems to ensure rapid, accurate and reliable information guaranteeing successful use of weapon systems.

II.6 Political consequences of deployment at the higher end of the spectrum

Finally, with regard to this part of the government's request for advice, the AIV feels the need – given the intense debate in the Netherlands (and elsewhere) on the deployment of troops in crisis areas – to point out certain major consequences of participation in peace enforcement operations and other activities at the higher end of the spectrum of force.

Firstly, although such operations will be designed to ensure a high probability of success, the outcome of warfare can never be predicted with absolute certainty. Frames of reference cannot offer such certainty, while security guarantees are only of a limited value to the safety of those involved in military action. There is little point in parliament's trying to elicit illusory guarantees by demanding the deployment of additional military capacity or asking questions about safety every time there is an incident.

There is a high probability that the troops deployed will suffer casualties. As will the local civilian population. 'Collateral damage' will never be entirely avoidable. There is no such thing as 100% clinical warfare, even if television footage of the use of precision weapons tries to persuade the public to the contrary. Even in the 21st century, the 'fog of war' still shrouds the battlefield. However well-trained the troops are and however hard they attempt to minimise consequences of this kind, the consequences will never be completely avoidable. It is very important that the legal rights of military personnel on deployment take account of this fact.

Any decision to deploy troops is the culmination of a complex assessment of the situation. Estimating the risks of troop casualties will be a major factor in this. In the opinion of the AIV, the Netherlands is currently giving too strong an impression of actively preferring missions where the risks are thought to be low, or of feeling that units should be withdrawn as soon as risks escalate. While the safety of military personnel is naturally a matter of the highest importance, the AIV would nevertheless urge greater openness and realism. It must not be forgotten that missions of this kind inevitably entail a degree of risk.

Secondly, there is sometimes very little time available for the processes of political decision-making. The deployment of 'special forces' is likely to be an inseparable part of the kind of operation being discussed here. Such operations can generally only be conducted under conditions of strict secrecy. That secrecy must be assured. The next section will address this issue in greater detail.

Deployment in the higher regions of the spectrum of force demands, both from the government and from parliament, the political will to accept such consequences. Despite the sounds sometimes made to the contrary, the AIV feels that the public is prepared to accept the consequences of the deployment of military units in these circumstances.²⁸

28 See, for example, Dr P.P. Everts, *Democracy and Military Force*, London, Palgrave Macmillan, 2002 and opinion polls conducted by the Society and Armed Forces Institute (*Stichting Maatschappij en Krijgsmacht*), www.smk.nl.

II.7 Conclusions and recommendations

- In general, the AIV endorses the government's perception that there is a trend towards 'harder' crisis management operations. The reason for this lies not only in the risks associated with interventions in intra-state conflicts, but also in the rise of international terrorism.
- At the same time, the AIV notes that traditional peace operations remain important.
- The AIV endorses the government's conclusion in the Budget Day letter that, although there is no longer any fear of a large-scale conventional attack on NATO territory, many other kinds of risks have increased.
- The AIV feels that the events of recent years have merely given added weight to the opinion expressed in its 1999 report to the effect that, in thinking about the development of Dutch security policy, it is impossible to draw any hard and fast distinction between crises and tensions at the lower and upper ends of the spectrum of force.
- For this and other reasons, the AIV concludes that, in the light of the level of ambition formulated by the government, the manpower and equipment requirements of 'initial entry' and 'follow-on' operations do not provide any clear criteria for the establishment of explicit priorities for the reorganisation of the Dutch armed forces. The AIV also thinks that, given the many sweeping measures announced in the Budget Day letter, this is not an appropriate time for it to advise any further radical reorganisation of the armed forces.
- The AIV feels that the Netherlands should contribute not only to 'follow on' operations, but also to 'initial entry' missions.
- The AIV recommends the deployment of Dutch armed forces in those fields where there is most demand for their advanced capabilities (in other words, in operations which demand high levels of skill and experience and sophisticated resources, and which present the opportunity to work flexibly and with a substantial degree of interoperability with military units from other countries). These qualities are especially necessary where troops are deployed in the complex situations likely to occur at the higher end of the spectrum of force.
- The AIV believes that, even after implementation of the measures announced in the Budget day letter, the government will continue to have access to a broad range of operational capabilities deployable with great flexibility and interoperability in crisis management operations.
- The AIV is extremely doubtful whether the sustainability capability available in the future will be sufficient to fulfil the ambitions expressed by the government.
- For this reason, the AIV recommends the following minimum policy changes:
 - (1) The government should pay increased attention to the capabilities, training and deployability of the National Reserve Force.
 - (2) Where participation in crisis management operations is concerned, the government should give priority to participation in more complex operations at the higher end of the spectrum of force, since this is where the best use can be made of the advanced capabilities of the Dutch armed forces.
- The AIV emphasises that troop deployments in the context described in this report call for both the government and parliament to show the political will to accept the consequences in terms of the inherent risks and uncertainties of such operations. The AIV feels that the Dutch public is prepared to accept the consequences of the deployment of military units in these circumstances.

III National decision-making procedures concerning participation in international military forces

III.1 Introduction and questions

The government's request for advice notes that recent years have seen a number of initiatives aimed at establishing multinational military forces – such as the NATO Response Force and its EU equivalent – and that the Netherlands is a member of various international coalitions. Question 2 asks about the possible consequences of this embedding in international military forces for the Netherlands' national decision-making procedures and, more specifically, whether the Frame of Reference for deployment needs to be amended.²⁹ Following the debate on the Defence and Foreign Affairs budgets in the Senate on 4 February 2004, the government also sent a supplementary question to the AIV (see annex II) asking it to examine the possible overlap between the purposes for which the armed forces may be used, as specified in Articles 97 and 100 of the Dutch Constitution, and the potential consequences of these for the involvement of parliament in the relevant decision-making procedures.³⁰

In response to these questions, this section offers a description of the current Dutch decision-making procedures for the deployment of military personnel for the purposes specified in the Constitution, and the involvement of parliament in these procedures. It also discusses the importance of the Frame of Reference as a 'checklist' for decision-making (subsection III.2). The section then goes on to consider the interface between the various types of international military forces and Dutch national procedures. It describes the procedures for UN peace operations and current NATO decision-making procedures, as well as those for the new NATO Response Force. Subsection III.3 looks at other permanent multinational military forces and the role of the EU, and subsection III.4 considers whether the current procedures for national decision-making, with the involvement of parliament concentrated in the final phase of the decision-making process (deployment), meet the demands of today's world or whether new solutions are required. In this context, consideration is also given to the extent to which any such new solutions must be sought in an amendment of the Frame of Reference. Finally, subsection III.5 contains conclusions and recommendations.

III.2 Statutory and policy frameworks for decision-making on deployment: Articles 97 and 100 of the Dutch Constitution and the Frame of Reference

III.2.1 The Constitution

The latest amendment to the Constitution, which entered into force on 1 September 2000, contained major new provisions on defence and the protection of the realm.³¹ The changes were designed to update provisions in the Constitution which assumed

29 Request for advice entitled 'Developments in crisis management: implications for the Netherlands', The Hague, October 2003.

30 Letter to the AIV from the Minister of Foreign Affairs, Minister for Development Cooperation and Minister of Defence, 19 February 2004.

31 Bulletin of Acts and Decrees 294, 18 July 2000.

that the armed forces would be used to defend the territory of the Kingdom.³² Paragraph 1 of a new Article 97 specified the purposes for which the armed forces could be deployed and made available. Paragraph 1 of a new Article 100 added to this that the government must inform parliament in advance if the armed forces are to be deployed or made available to maintain or promote the international legal order. This met the need for constitutional provision for the Netherlands to participate in crisis management operations to maintain or promote the international legal order and ensuring the involvement of parliament in decisions on such participation. Over the preceding decade, the armed forces had been deployed for almost nothing but such operations and the Constitution had failed to keep pace with this development.

Although the new Article 100 provided for the involvement of parliament in decision-making on the deployment of the armed forces, the amendments to the Constitution did not give the States General a formal right of consent of the kind demanded in a motion tabled by Eimert Van Middelkoop.³³ This is clear from the explanatory memorandum accompanying the constitutional amendments, the advice of the Council of State and the response of the government.³⁴ What Article 100 does establish is the duty of the government to inform the States General in advance if the armed forces are to be deployed or made available to maintain or promote the international legal order (including the provision of humanitarian aid in the event of armed conflict). The provision of information pursuant to Article 100 will usually be followed by deliberations on the information by the House of Representatives, which will thereby exercise its responsibility of controlling the actions of the government. In recent years it has become normal practice for the provision of information to be followed by a debate.

32 There was also the suspension of compulsory military service, regulated by Article 98 of the Constitution, but this is less relevant to the present report.

33 Parliamentary papers, House of Representatives, 1994/95, 23591, no. 2. During the plenary debate on the amendment to the Constitution, Mr Van Middelkoop declared that, while it could not be said that the government had literally implemented his motion, it had made a serious attempt to capture its main tenor: the amendment might not bestow a formal right of consent, but it did offer one in practice. Mr Van Middelkoop expressed similar views during the hearings of the Bakker Committee. See Bakker Committee report, vol. 1, p. 32.

34 House of Representatives Session 1996-1997, 25367 (R 1593), no. 3: 'Declaration that there are grounds for considering a proposal to amend the provisions in the Constitution concerning national defence' and 1996-1997, 25367 (R 1593), B: 'Advice of the Council of State and further report'. The government states in this document (after the Council of State had demanded an explicit statement on the point): 'it is therefore not proposed that the States General should have a right of co-decision. To establish such a right within the Constitution would in fact mean, within our current constitutional system, that a formal legislative procedure or equivalent decision by both Houses would be necessary in order to give approval or consent before military personnel could be deployed or made available to maintain or promote the international legal order. (...) The power (and therefore the responsibility) of deploying military personnel or making them available to maintain or promote the international legal order will continue to rest with the government. Compared with Article 68, the proposed new Article 100 does, however, give the States General a new and stronger constitutional role through the obligation to inform the States General in advance, and indeed spontaneously, (...) that prior consultation with the States General is possible. (...) The main thrust of Article 100 is to strengthen the role of the States General in controlling the actions of the government'.

The government's constitutional duty is limited by the codification to the provision of information. Paragraph 2 of Article 100 provides that paragraph 1 shall not apply if compelling reasons exist to prevent the provision of information in advance. In that event, information is to be supplied as soon as possible (in other words, after the event). The implication of this is that the government is not dependent on the consent of the States General as a whole or the House of Representatives in particular when making the armed forces available to maintain or promote the international legal order (including the provision of humanitarian aid in the event of armed conflict), although its actions are, of course, in this as other respects, subject to overall control by parliament.

An exceptional example of the application of paragraph 2 of Article 100 relates to decision-making on 'special operations'. By letter of 23 August 2000, the government informed the States General about decision-making procedures in the event of participation in occasional high-risk operations of this kind, where secrecy is paramount.³⁵ The exception specified in paragraph 2 of Article 100 applies to these operations. In the case of such special operations, an inner circle of ministers will decide whether the entire government should be involved in decision-making, and when and how the States General are to be informed. The letter suggests that there will generally be no alternative to informing parliament only after the event. According to the government, this is entirely in accordance with the provisions of the Constitution.³⁶

Whether, and to what extent, parliament is involved depends, therefore, on whether or not a deployment falls under Article 100. If the deployment is not 'to maintain or promote the international legal order' but for one of the other purposes specified in Article 97 (defence and protection of the interests of the Kingdom), there is no duty to inform the States General in advance. (This report disregards the case of Article 96, which prescribes that a declaration that the Kingdom is in a state of war shall not be made without the prior approval of the States General.) The government's supplementary question about the issue of the demarcation and possible overlap between the various purposes specified in Article 97 is addressed in detail in subsection III.4.2.

III.2.2 The Frame of Reference

The Frame of Reference specifies the particular cases in which the government is subject to the obligations contained in Article 100 of the Constitution. It can be seen as elaborating on the existing practice of consulting the States General, which has now been codified in Article 100.³⁷

35 The operations concerned will be of the following types: special intelligence-gathering or arrest operations; attacks on selected targets; special forms of military support for allies; evacuation of persons in high-risk or life-threatening circumstances; and action against international terrorism. See annex to letter D2000003737 from the Minister of Defence, dated 26 January 2001. See also Bakker Committee report, vol. 1, pp. 27-33.

36 Statements by Minister of Defence Henk Kamp show that he is prepared, if necessary, to use Article 100, paragraph 2 to enable the rapid deployment of members of the Commando Corps in war situations. (Volkskrant newspaper, 1 November 2003).

37 The present Frame of Reference dates from 2001, when a number of changes were made to the 1995 version to reflect the findings of the Bakker Committee.

In this respect, the Frame of Reference states that it relates only to ‘the voluntary deployment of military units to which the duty to inform [parliament] pursuant to the new Article 100 of the Constitution applies’. Disregarding the criterion that the deployment must be voluntary, the remainder of this report will refer only to the descriptions provided in the Constitution. The Frame of Reference does not relate to deployments undertaken in pursuance of NATO and other treaty obligations. Nor does it relate to missions in which Dutch military personnel participate on an individual basis or to the secondment of Dutch military personnel to international staffs. The deployment of civilian personnel in the context of crisis management operations is also excluded.³⁸

The Frame of Reference is a list of considerations which the government can take into account when deciding to participate militarily in a crisis management operation and use ‘to structure exchanges of views with the States General concerning the participation of Dutch military units in international crisis management operations’.³⁹ The nature of the considerations is political (1-5), military (6-8) and organisational/financial (9-10):

1. grounds for participation;
2. political aspects;
3. mandate for the operation;
4. participating countries;
5. influence on decision-making;
6. feasibility of the operation;
7. risks;
8. suitability and availability;
9. duration of participation and arrangements for rotation and replacement;
10. financial aspects.

In everyday political discourse, greater significance than this is sometimes attached to the Frame of Reference but it is a misconception to believe that it contains ‘hard and fast’ conditions for deployment. The evidence given by ministers, parliamentarians, public officials and military personnel to the Bakker Committee confirmed that it is no more than a list of obvious considerations. Asked about the use made of the Frame of Reference during decision-making, their answers showed that it is seen merely as a useful checklist. The weight attached to the individual considerations by different actors can produce differing conclusions. Each decision-making process is a stand-alone event and has its own modalities. The Frame of Reference always provides ammunition for both sides of the debate on any given deployment. For the rest, the phrase ‘applying the Frame of Reference’ is sometimes used by ministry officials to mean ‘informing parliament’.⁴⁰

III.3 Various types of international military force

The UN, NATO and other organisations each have their own decision procedures concerning deployment. This subsection contains details of these procedures, followed by

38 See Frame of Reference 2001, ‘scope and tenor’.

39 Text derived from the Frame of Reference 2001, Letter to the House of Representatives dated 19 July 2001.

40 Report of the Temporary Committee on Decision-making on Deployment, p. 461 et seq.

a description of the decision-making procedure in relation to formations like the NRF and other standing international military forces. The latter is particularly complex from the point of view of national decision-making.

III.3.1 The United Nations

UN decision-making on UN peace operations appears at first sight to be a simple process by Dutch standards, although here too it is difficult to say at what point the 'informal exchange of information' is formalised.

Once the UN Security Council has issued a mandate for a peace operation, the UNSG starts to look around for the troops to execute it. Member states are requested to make general or sometimes highly specific military contributions. Contributions are entirely voluntary and the force is generated on an ad hoc basis for each individual operation.⁴¹ Having received such a request, the Dutch government must investigate whether it is desirable and feasible to make a contribution. Before doing so, however, it writes to the States General, informing parliament that it is examining the request but in no way anticipating the results of its investigation or the ultimate decision on deployment.⁴² If the government does eventually decide to make a contribution, the Article 100 procedure is triggered.⁴³ If the UNSG's request is dismissed out of hand – and this can happen at official level – the States General will not be informed as a matter of routine, although they can of course ask for the information.⁴⁴

Where the Dutch decision-making procedure in such a case is concerned, therefore, it is clear that Article 100 will apply, although there may be different interpretations with regard to the moment at which the actual decision is made and parliament must be informed.

In the case of UN-mandated ad hoc coalitions and UN-mandated NATO operations, it is far more difficult to pinpoint the moment at which the decision to embark on the opera-

41 The discussions about UNSAS mark attempts – partly as a result of Dutch initiatives in this area – to create a 'pool' of advance commitments alongside this ad hoc procedure.

42 Text derived from the Frame of Reference. The question is what, precisely, 'investigating whether it is desirable and feasible to make a contribution' means and at what exact point the government should inform the States General that it is doing so. In this context, it is interesting to note that a notification to the States General has never so far been followed by a refusal to contribute. See also note 14.

43 Frame of Reference 2001, 'informing the States General'.

44 Many requests from the UNSG are examined and turned down by Ministry of Defence officials, often with an – unspecified – reference to the Frame of Reference. Parliament is not routinely informed of such refusals. It may be wondered whether parliament ought in fact to receive this information in order to enable it properly to fulfil its task of controlling the actions of the government. The fact that notifications of requests have so far invariably preceded decisions to deploy seems to suggest that notification implies approval. The question of whether the States General should be notified of the refusal of UN requests was also raised during the hearings of the Bakker Committee. Two members of the House of Representatives (Gerrit Valk and Maxime Verhagen) felt that it should, an opinion also expressed by another member of the House (Jan Hoekema) in the course of an earlier debate. A list produced by the Ministry of Foreign Affairs showed that the Dutch government had refused all or part of 87 UN requests to participate in operations since 1992. See also the Bakker Committee report, vol. 1, pp. 422-423.

tion is taken and at which definitive national commitments have to be made. The determining factors will include not only the structure of consultation and decision-making process within the UN, but also the process within NATO and/or the consultations between the various members of the ad hoc coalition. In the case of a NATO response to what is clearly an Article 5 situation, however, this will not be the case.

Moves have been made within the UN to improve this process and ensure advance national commitment. The Standing High Readiness Brigade (SHIRBRIG) is one example. The ten participating countries are the Netherlands plus Argentina, Italy, Romania, Austria, Canada, Denmark, Norway, Poland and Sweden. SHIRBRIG is a 'pool' of national commitments to the UN 'Stand-by-arrangement system (UNSAS)', each consisting of the equivalent of an infantry battalion plus staff officers for planning and a headquarters. The commitments are not binding and there are no plans for combined training. The Dutch-Canadian battalion that served in UNMEE⁴⁵ did so under the SHIRBRIG banner. A Danish SHIRBRIG contingent also took part in that mission.

III.3.2 NATO

III.3.2.1 Generation of a NATO force

The current NATO decision-making process on force generation is as follows: the North Atlantic Council (NAC) responds to a developing crisis by initiating the planning of an operation and asking the Strategic Commander to devise an operational plan. This must then be approved by the NAC before the Strategic Commander can execute it. The process of generating the required military resources is fairly time-consuming and can only begin once the NAC has issued the 'Force Activation Directive'. Once this has been done, the Strategic Commander issues an 'Activation Warning' informing the regional commanders and the NATO countries that a force is required to execute the approved operational concept. Member states can respond by making informal commitments. Once the Strategic Commander has a clear overview of these, he issues an 'Activation Request', after which countries can formalise their commitments. In doing so, the Netherlands can indicate that its offer is subject to political approval at national level. The operation finally takes place following the issue of an 'Activation Order'.

So far as the Dutch decision-making process is concerned, the national decision to participate in a NATO operation must be taken prior to the issue of the Activation Order, but at precisely what point it is in general terms difficult to say. The issue of the Force Activation Directive by the NAC marks the end of the period in which the States General can be informed via the so-called 'Article 100 letter' and a debate can be conducted about the Dutch contribution. The decision-making process described here has to date always been applied in the context of NATO 'out-of-area' operations to which Article 100 applied.⁴⁶

45 United Nations Mission in Ethiopia and Eritrea.

46 'Out-of-area' operations or 'Non-Article 5 operations' are terms used within NATO to refer to operations outside the treaty area. Article 5 of the North Atlantic Treaty applies only to the treaty area and states: 'The Parties agree that an armed attack against one or more of them in Europe or North America shall be considered an attack against them all and consequently they agree that, if such an armed attack occurs, each of them (...) will assist the Party or Parties so attacked by taking forthwith, individually and in concert with the other Parties, such action as it deems necessary, including the use of armed force, to restore and maintain the security of the North Atlantic area.'

III.3.2.2 NATO Standing Forces

NATO has a number of permanent multinational military forces, known as 'standing forces'. Examples are Standing Naval Forces Atlantic (STANAVFORLANT) and Standing Naval Forces Mediterranean (STANAVFORMED). These are both standing fleet formations which are constituted in advance and take part in combined exercises at regular intervals. Command of Dutch frigates included in these fleets normally rests with the international commander, even when the fleet is not engaged in an operation. The deployment of such a fleet in a specific operation requires a decision by the NAC. Following the activation of Article 5 after the events of 11 September 2001, STANAVFORMED – including the Dutch frigate included in it at the time – was deployed in the eastern Mediterranean, where it remains active.

NATO's existing standing forces are in many important respects similar to the new NRF (see below), although in the case of the NRF NATO command will be less far-reaching (it will be confined to the period following deployment).

III.3.2.3 NATO Response Force

This is a new feature of NATO. The NATO Response Force is a rapid reaction force intended to be capable of deploying swiftly (in between five and thirty days) in response to any crisis. This is not possible if the process described in subsection III.3.2.1 has to be followed. For this reason, the NRF is a standing force made up in advance out of units which have been made available by member states and which have received combined training, more or less by analogy with the standing forces described in subsection III.3.2.2.

The decision-making procedure for the deployment of the NRF will be largely the same as the one described in subsection III.3.2.1. The aim of rapid deployability (reconnaissance unit within five days, NRF within thirty days) means that decision-making will take place under pressure, but it will be possible to complete the process more quickly because the force has already been constituted in advance.

At the moment of actual deployment, therefore, the nature of the national contribution to the NRF will already have been decided. From the point of view of national decision-making, this is an important difference from the procedure described in subsection III.3.2.1.⁴⁷ National decision-makers are confronted with a situation in which the decision on the nature of the contribution has already been taken and is uncoupled from the decision on deployment. However, it is virtually inconceivable that units made available could be withdrawn at the moment of actual deployment, or only in exceptional circumstances. Subsection III.4 looks in detail at this dilemma and its possible consequences.

⁴⁷ The NRF is constituted by countries making units available for a period of 6 months on a rotational system. The rotations are numbered (NRF-1, NRF-2, NRF-3, et cetera), with the first two rotations (October 2003 - June 2004) forming part of the pilot phase.

The Netherlands has allocated the following contributions:

NRF-1: 1 frigate (October-December 2003);

NRF-2: 1 frigate, 6 F-16s (first half of 2004);

NRF-4: GE/NL Headquarters and GE/NL land forces (first half of 2005, the involvement of the land forces has still to be worked out at a later stage).

See letter from the Minister of Defence and Minister of Foreign Affairs, 2 October 2003, Parliamentary papers, House of Representatives 28676, no. 8.

Another important difference for national decision-making is that the NRF can be deployed both in defence of the treaty area (Article 5 situations), and in Non-Article 5 situations - in the initial phase of a crisis management operation or in response to the unexpected escalation of a conflict. Subsection III.4 also looks at this, and at the question of its possible implications for the involvement of parliament. Deployment in Article 5 situations must be regarded as deployment 'for the defence and protection of the interests of the Kingdom'; by contrast, the aim in Non-Article 5 situations will generally be to maintain the international legal order, meaning that the provisions of Article 100 and the Frame of Reference will apply. The distinction will not invariably be clear-cut (see also subsection III.4.2).

III.3.3 Other multinational military forces

The problems outlined above are the subject of current political interest in the context of the talks about the NRF. But they are not in fact an entirely new dilemma. As we have seen, NATO's standing forces are constituted in a similar way. A comparable situation also arises where Dutch units form part of standing military forces constituted by two or more countries, as in the case of the Anglo-Dutch Amphibious Force (Navy) and the GE/NL Corps (Army), or the American-German-Dutch Extended Air Defence Task Force (EADTF, land-based air defence or Patriot missiles).

However, the NRF is not entirely comparable with these multinational standing forces, since they are not generally constituted for a specific purpose (even though the use of some of them, e.g. the EADTF, is certainly highly specific) as the NRF may, in a sense, be said to be. At the same time, the establishment of such a force presupposes that the partners will cooperate with regard to decision-making on deployment and hence must be deemed to have surrendered some degree of sovereignty in this respect. In such a situation, it is not unrealistic to assume that 'minor' partners will in practice have to surrender a greater proportion of independence in such decisions than 'major' partners. In this respect, NATO standing forces are no different from the multinational partnerships mentioned above, or from the NRF.⁴⁸

The effectiveness of such combined forces is wholly dependent on the willingness of the partners actually to deploy them. We have seen on a number of occasions what happens if they cling to their sovereign power of decision until the last moment. When Patriot missiles (EADTF) were sent to Turkey recently in the lead-up to the Anglo-American operation in Iraq,⁴⁹ German cooperation hung in the balance for political reasons and there was a long period of doubt concerning the feasibility of stationing the missiles in Turkey. Another rather similar example was the Dutch decision in February 2003 – on the eve of the Anglo-American intervention in Iraq – not to take part in a planned joint exercise with the British in the context of the Anglo-Dutch Amphibious Force in the Mediterranean.⁵⁰

48 The deployment of a frigate as part of a combined fleet will, however, generally be less politically controversial than making ground troops available. It is also true that a contribution in the form of a frigate will be Dutch government did not advance this argument for the stationing of the Patriot missiles in Turkey; it did not establish such a direct connection with the impending invasion of Iraq.

49 At the time, the Dutch government did not advance this argument for the stationing of the Patriot missiles in Turkey; it did not establish such a direct connection with the impending invasion of Iraq.

50 Report no. 31, 'Military cooperation in Europe: opportunities and constraints', p. 18 et seq.

A successful example was the deployment of the GE/NL Corps in Afghanistan to command ISAF in Kabul. On 6 November 2002, the government sent an 'Article 100 letter' to the States General informing it of the decision to extend Dutch participation in ISAF and to deploy parts of GE/NL Corps in the role of headquarters.⁵¹ The same letter also contained the first information given to parliament about the specially agreed bilateral political coordination mechanisms. These included a bilateral steering committee with the important role of coordinating policy-related political matters. The lead as regards political coordination was given to The Hague, while military command of ISAF headquarters lay with the German 'Einsatzführungskommando der Bundeswehr'. This division of responsibilities was reflected in international forums: for example, the Netherlands acted as spokesman in the North Atlantic Council and the EU's Political and Security Committee (PSC) and Germany in the NATO and EU Military Committees. Coordination mechanisms of this kind can serve as a model for other similar combined forces.

III.3.4 The European Security and Defence Policy (ESDP)

The ESDP is still under development but has made progress since the joint Anglo-French Declaration of St. Malo (1998). The establishment of a European Rapid Reaction Force in 2003 means that the EU now has access – on paper – to its own reaction force with which to execute its Petersberg tasks.⁵² The force is to be available within 60 days and is to be capable of sustaining independent deployment for one year. Since it will not be a standing force, it is likely to suffer less from the tension between allocation and deployment which this report identifies in the case of the NRF and other multinational formations.

Negotiations on the EU Constitution have led to the inclusion in the Draft Treaty of new articles relating to matters such as solidarity in the response to terrorism, the establishment of a European agency for capability strengthening and cooperation on materiel, closer cooperation with regard to mutual assistance and the implementation of EU missions. On the latter point, it has been proposed that the implementation of such an operation might be entrusted to a *group* of member states, although the decision to launch it would have to be taken by unanimous vote of all the member states. The draft protocol on the future ESDP also records the aspiration that member states should be able to supply, either alone or in concert with other countries, combat units (called 'battle groups') capable of deployment within 5 to 30 days for a robust operation far outside Europe.⁵³

51 Afghanistan was treated by the government as an 'Article 100' case and ISAF was UN-mandated. However, the parallel contributions to Operation Enduring Freedom (OEF) were not treated as falling under Article 100 because, it was argued, they were motivated by solidarity with NATO allies and were part of the NATO-activated Article 5 response to the events of 11 September 2001.

52 The Petersberg tasks relate to Article J.7.2 of the Treaty on European Union and relate to humanitarian and rescue work, peacekeeping, and tasks undertaken by combat forces in the crisis management field, including peacemaking. However, there is some difference of opinion about their upper limit.

53 See e.g. Bulletin EU 6-2002, Presidency Conclusions (6/25), 9 March 2004.

III.4 A critical examination of current Dutch procedures

The question now is whether the Netherlands' current procedures are adequate to enable parliament to be involved in decision-making while still satisfying the special demands that we are about to face as a result of new developments like the establishment of the NRF and – the AIV would add – other standing multinational forces, or whether there is a need to modify the current procedures (in particular the Frame of Reference), subject of course to the current terms of the Constitution.

III.4.1 Decision-making in three phases: establishment, allocation and deployment

Decision-making in relation to a military body like the NRF can be divided into three main phases: establishment, allocation and deployment. The first phase encompasses the international process of deciding to constitute the military force and the national process of deciding whether to make a serious contribution to it. The second phase is the translation of the national decision to contribute into the allocation of designated units for specific periods. The third phase is the process of deciding on the actual deployment of the military force, including the units made available by the Netherlands, in a specific operation.

The national decision-making procedures and parliamentary involvement in them, as described in Article 100 of the Constitution, are concentrated in the third phase (deployment). The Frame of Reference is likewise a tool for structuring decision-making in the third phase. However, the decisions taken at that stage involve many factors already decided in the first two phases. The AIV feels that the implications of the decision-making process in the two earlier phases need to be fully recognised, both by the government and by parliament.

In the view of the AIV, amendment of the Frame of Reference (a tool for use in the third phase) will not provide a fundamental solution to the dilemma that the decision has already, by implication, been partially taken in the two earlier phases. It seems more sensible to focus in part on the earlier phases (in particular that of allocation). Given that allocation necessarily involves a degree of commitment, there would seem to be a need for substantive discussion with the States General at that point. The AIV feels that the allocation stage is important enough to merit more conscious attention than is currently envisaged in the plan for allocations to the NRF to be announced in the Budget. The Frame of Reference could certainly offer useful guidance in this respect. The government could use the allocation stage to provide fairly detailed early information on a number of the military and financial/organisational issues mentioned in the Frame of Reference. In a discussion at this stage, there will of course be no answer available to the questions in the Frame of Reference relating to the political context, since the issue of allocation is not connected with any particular situation or operation.

In the particular case of the NRF, the issues are clear. The allocation of Dutch military personnel to the NRF is not subject to the obligations of Article 100 of the Constitution. The plan is that the Dutch government should announce the allocation each year in the Budget. This means that parliament will not be explicitly asked its opinion at the time when units are being made available, although it will of course be open to the States General to address the matter in the course of the Budget debate. Decision-making on any deployment in a Non-Article 5 situation eventually proposed will, of course, be subject to Article 100 and the procedures specified in the Frame of Reference. However, parliament's perceived freedom of decision at that point in the process will be limited by the grave consequences that may be expected to flow from

any decision to withdraw the allocated contribution.

The States General may find it hard to stomach the prospect of being faced with a decision on deployment which it may well see as a *fait accompli*.⁵⁴ It is however important to realise that the same constraints will apply to the Dutch government's freedom of decision when international decisions are being taken concerning the deployment of multinational formations like the NRF. The relevant letters to the States General suggest that the government accepts the consequence of the allocation as a realistic consequence of its wish to participate meaningfully in the NRF. Parliament may logically be expected to share this point of view; after all, it has approved not only the idea of the NRF and Dutch participation in it (phase 1), but also the allocation (phase 2). (Its approval for the idea of the NRF and for serious Dutch participation in it can be deduced, for example, from parliamentary debates following the NATO summit in Prague, where the NRF was operationalised.)

As already noted, the solution will not lie in an amendment to the Frame of Reference; nevertheless, it is worth considering improving the Frame of Reference in this respect. For the sake of completeness and clarity, it should pay more systematic attention to the process of decision-making in the first two phases. The question of whether the contribution is part of a standing multinational force should also be considered. For example, a new consideration could be introduced: description of the decision-making process preceding deployment/nature of the multinational force/state of play regarding decision-making in the partner country/among allies.

III.4.2 Overlap between the purposes specified in Articles 97 and 100

As already indicated (in subsection III.2.1), Article 97 of the Dutch Constitution specifies three purposes for which the armed forces may be used: to defend the Kingdom, to protect its interests and to maintain and promote the international legal order. In the context of this report, however, the first two of these can be regarded as one. The practical importance of the distinction between the three purposes lies in the duty of the government under paragraph 1 of Article 100 of the Constitution to inform the States General in advance if the armed forces are to be deployed (or made available) to maintain or promote the international legal order. It has no duty to do so in relation to any deployment not falling under paragraph 1 of Article 100 and this point is undisputed.

In view of the varying possible interpretations of the terms on which the distinction is based, it will not always be immediately clear to which category an intended deployment belongs. More specifically, it is quite conceivable that the purpose of a particular deployment will be both to protect the interests of the Kingdom and to promote the international legal order. This issue was raised even during parliamentary consideration of the amendment to the Constitution and has been discussed on various occasions since then. The government has taken the position that, although there may be an overlap in particular cases, it should be possible in each case to opt sensibly for one purpose or the other.

54 As witness, for example, reactions by members of the House of Representatives to the suggestion voiced by Minister of Defence Henk Kamp that the government would, if necessary, deploy troops without informing parliament.

The AIV endorses this view, but this response is not sufficient in itself to answer the government's question. As suggested in section I, there is an increasingly direct connection between internal and external security. For example, the Dutch military involvement in Afghanistan can be seen as a deployment serving both the purposes specified in Article 97. The situation in that country featured elements clearly contrary to the international legal order (grave violations of human rights and a humanitarian emergency), but also elements constituting a threat to Dutch homeland security (the presence of Osama Bin Laden's terrorist network, supported or tolerated by the Taliban regime). On that occasion, the Dutch government opted in practice for a two-track constitutional approach, coupling Dutch military support for Operation Enduring Freedom to the activation of Article 5 of the North Atlantic Treaty (on 12 September 2001) and hence to the defence and protection of the interests of the Kingdom (and its NATO allies), and treating the deployment of Dutch troops in the context of ISAF as falling under Article 100 of the Constitution. As it happens, however, the States General was – at its specific request – supplied with written information about the deployment in the context of Operation Enduring Freedom for use in the debate on the deployment in the context of ISAF.

The case of Afghanistan confirms the expectation that an acceptable solution to the dilemma will in practice generally be found but does not resolve the issue in principle of what should, be done if the two purposes for which forces are to be deployed are of equal weight.

In the opinion of the AIV, a fair interpretation of the wording of Article 100 of the Constitution requires that, where deployment is intended for both purposes and the purpose of maintaining and promoting the international legal order plays a not inconsiderable role, the government should follow the information procedure specified in Article 100. By 'not inconsiderable' the AIV means significant, but not necessarily predominant. The way in which the various terms (interests of the Kingdom, promoting the international legal order, significant role, et cetera) should be interpreted in a particular situation will be decided in the first instance by the government. Where one factor is clearly predominant, this should be taken as the main indicator of whether or not Article 100 applies. The government should aim to be consistent in its choices in this area. The choice made by the government in any particular case will, of course, be subject to the general democratic control of parliament. It is certainly not the intention of the AIV to extend the scope of application of Article 100 to include the other purposes specified in Article 97, in relation to which Article 100 imposes on the government no obligation to inform the States General.

III.4.3 'Secret' deployments and speed of decision-making

Two other issues which are regarded as problematic – wrongly, in the view of the AIV – are the necessary speed of decision-making on the deployment of the NRF and the possible necessity of 'secret decision-making'.

Any debate on the deployment of the NRF will indeed have to take place subject to a strict deadline. This is sometimes seen as a potential problem but the AIV does not see this as insoluble. A special accelerated procedure could be agreed between the government and parliament for such cases. There are precedents for this, such as the two-day consultations on the deployment of Dutch forces in Afghanistan in the context of ISAF.

The issue of secret deployments can be simply settled by applying the exclusion clause in paragraph 2 of Article 100.

III.5 Conclusions and recommendations

- The involvement of the States General and the Frame of Reference are relevant only in the case of Article 100 deployments. Where they are concerned, parliament has a right to be informed and can, on the basis of the information provided, request a debate.
- Participation in standing multinational military formations means the *de facto* surrender of a proportion of the state's sovereign power of decision. The freedom of decision of both the government and parliament is limited from the moment of allocation (phase 2) and to some extent even from the moment at which the force is established (phase 1).
- In the case of the government, this is a consequence that has to be accepted.
- In the case of the States General, it is relevant that it has already approved the creation of the combined military force and a serious Dutch contribution to it (phase 1) and the allocation (phase 2).
- During consultations with the States General, proper time and attention should be devoted to the allocation stage (phase 2). This applies to both the NRF (where the question is now in the political limelight) and other standing multinational forces, where this has not been so.
- the Frame of Reference is not a real solution to the fundamental problem, since the document is a tool for decision-making in phase 3 (deployment) and ignores the issue of allocation. A better solution would be to use parts of the Frame of Reference in relation to decision-making on allocations (phase 2).
- The Frame of Reference used in phase 3 (deployment) could, however, be expanded to include an extra consideration explicitly addressing the implications of decision-making in the previous phases. This should also explicitly address the issue of whether the contribution is part of a standing multinational force. This could be done, for example, by introducing a separate consideration: 'nature of the Dutch contribution/nature of the multinational force/ state of decision-making in the partner country/among allies'.
- The meshing of internal and external security increase the number of situations in which the deployment of Dutch military personnel can equally well be argued to be for either of the purposes specified in Article 97. A reasonable interpretation of the wording of Article 100 of the Constitution requires that, where deployment is intended for both purposes, and maintaining and promoting the international legal order plays a not inconsiderable role, the government should follow the information procedure specified in Article 100. The way in which the various terms should be interpreted in a particular situation will be decided in the first instance by the government. Where one factor is clearly predominant, this should be taken as the main indicator of whether or not Article 100 applies. The government should aim to be consistent in its choices in this area. It is certainly not the intention of the AIV to extend the scope of application of Article 100 to include the other purposes specified in Article 97, in relation to which Article 100 imposes on the government no obligation to inform parliament.
- Where personnel are deployed in the context of special operations demanding secrecy, the retrospective provision of information to parliament will often be the only option. In the view of the AIV this cannot be regarded as a real problem, given the flexibility available in the Constitution and the operational necessity of secrecy.

Nor, given experience with ISAF, does the AIV think that the speed of decision-making required in the case of the NRF is a fundamental problem.

- In the light of the above, the AIV recommends that the government and parliament should in future apply the Frame of Reference (or parts of it) at the stage when Dutch units are being allocated to standing multinational military forces (not just to the new NRF, but retrospectively to the existing multinational forces and any such future combined forces). Meaningful discussion at the stage of allocation could help to ease a later debate on deployment.

Annex to Section III: Relevant articles in the Dutch Constitution

Article 96

1. A declaration that the Kingdom is in a state of war shall not be made without the prior approval of the States General.
2. Such approval shall not be required in cases where consultation with Parliament proves to be impossible as a consequence of the actual existence of a state of war.
3. The two Houses of the States General shall consider and decide upon the matter in joint session.
4. The provisions of the first and third paragraphs shall apply mutatis mutandis to a declaration that a state of war has ceased.

Article 97

1. There shall be armed forces for the defence and protection of the interests of the Kingdom, and in order to maintain and promote the international legal order.
2. The Government shall have supreme authority over the armed forces.

Article 98

1. The armed forces shall consist of volunteers and may also include conscripts.
2. Compulsory military service and the power to defer the call-up to active service shall be regulated by Act of Parliament.

Article 99

Exemption from military service because of serious conscientious objections shall be regulated by Act of Parliament.

Article 99a

Duties may be assigned for the purpose of civil defence in accordance with rules laid down by Act of Parliament.

Article 100

1. The Government shall inform the States General in advance if the armed forces are to be deployed or made available to maintain or promote the international legal order. This shall include the provision of humanitarian aid in the event of armed conflict.
2. The provisions of paragraph 1 shall not apply if compelling reasons exist to prevent the provision of information in advance. In this event, information shall be supplied as soon as possible.

IV Peace, security and development cooperation

IV.1 Introduction and questions

Question 3 of the government's request for advice observes that 'In post-conflict countries and countries that are at risk of destabilisation and violent conflict, security, stability and development are closely linked' and asks whether 'current efforts by the international community ... take a sufficiently integrated approach to these issues'. The request for advice indicates that the criteria set in the past by the OECD's Development Assistance Committee (DAC) for the definition of Official Development Assistance (ODA) may be an impediment to an integrated approach and are anyway not entirely clear. The AIV is asked to give its views of these problems and to assess the potential for placing the issue firmly on the international agenda. More specifically, the government asks whether it is right that the criteria for ODA invariably exclude support for military components of the security sector. What is the AIV's view of the 'blue helmet criterion' according to which post-conflict reconstruction activities undertaken by military personnel cannot be regarded as development assistance unless the soldiers involved are UN peacekeeping forces? And what are the AIV's views concerning the role of the Stability Fund?

This section starts by addressing the general issue of the relationship between development cooperation and security policy, and the 'integrated approach' to conflicts (subsection IV.2). It also outlines obstacles to putting these into practice (subsection IV.3), both at UN level and at other levels (including that of the Netherlands). This is followed by an examination of the move towards regional implementation of crisis management tasks (subsection IV.4) and impact on Dutch ambitions of the conflict of interests between security policy and development cooperation and the role of the OECD-DAC criteria (subsection IV.5). Finally, the section outlines a number of options for follow-up action (subsection IV.6) and ends with conclusions and recommendations (subsection IV.7).

IV.2 The relationship between development cooperation and security and the importance of an integrated approach to conflicts

Over the last ten years, the international community has shown increasing interest in the relationship between conflicts and development. Security and development cooperation are – at least on paper – no longer two separate worlds. There is increasing recognition of the ways in which they interface. On the one hand, people are thinking about development in broader terms and considering not only economic factors but also, to a greater extent, the importance of a country's ability to resolve conflicts. In a 2000 publication, the World Bank identified 'human security' as a precondition of poverty reduction and the DAC analysis of poverty likewise sees security as one of the 'dimensions of poverty'.⁵⁵ On the other hand, the concept of security has also been

⁵⁵ The attention paid to aspects of peace and security in general development strategies is certainly relevant to the issue of the relationship between development cooperation and security. However, the way in which security is integrated into development strategies is not the primary focus of this report. The AIV will confine itself to observing that institutions like UNDP and the World Bank understand the importance of taking the security dimension into account in their activities, but that this is a politically sensitive issue which they are obliged to handle with care. It is, of course, a different matter if a country itself asks for development activities to take account of the security sector.

broadened out from a primarily military one to a more multidimensional issue, in which civil post-conflict reconstruction is seen as indispensable to lasting peace. This is what the request for advice means by an 'integrated approach to conflicts'.

An 'integrated approach to conflicts' is a broad concept and it is becoming so fashionable that there is some risk that its precise meaning will be forgotten, while lip-service to it far outstrips practical action on the ground. The idea began to attract interest in the 1990s, when experience of increasingly complex crisis management operations (then mainly under the aegis of the UN) revealed a vital need both to accompany military intervention with economic and civil post-conflict reconstruction, and to work on civil and military aspects of prevention even before conflicts break out.

'An Agenda for Peace', the 1992 report by the then UNSG, Boutros-Ghali, provided a major impetus in this direction by emphasising the importance of an integrated approach (directed at 'post-conflict peacebuilding'). Crisis management needs to encompass not only military, but also civil activities such as the disarming and reintegration of soldiers, the protection of refugees, the establishment of a police and justice system, supporting and observing elections, and restoring the legal system. This is the only way to tackle the underlying causes of conflict, such as economic failure, social injustice and exclusion, political oppression and illegal trafficking in arms. A purely military crisis management operation offers little chance of lasting success if no action is taken to deal with these root causes (often too the immediate causes) of the conflict. In addition, more needs to be done to prevent armed conflict in the first place. In a Presidential Statement of 1998, the UN Security Council recognised the importance of this kind of comprehensive approach and suggested that activities in this area should be integrated into the mandates of peacekeeping operations.⁵⁶ In the light of these statements, there may be said to be a broad and universal recognition that action to rebuild a stable peace needs to encompass many different components.

IV.3 Impediments to the practical development of integrated security policies

The AIV feels that the approach outlined above is absolutely necessary to ensure the success of crisis management operations. It features an increasing emphasis on integrated security policies but not enough has yet been done to develop such policies in practice. One reason for this is the deep-rooted difference in decision-making culture between the security policy field and the development cooperation world. A second reason is the way funding is organised: at both national and multinational level, the sources of funding for security and development have traditionally been quite separate from the political and military process.

These differences have consequences for the way decisions are made. In an ideal world, an objective analysis of the situation in a particular country or region would be followed by an examination of the civilian and/or military resources needed to deal with it. Only then would come the question of who should take the necessary action and the point at which countries - including the Netherlands - would have to decide whether they should play a part in it. Various factors would be relevant to that decision: the capabilities and financial resources available, the nature and scope of the interests, the estimated military risks, and the extent of the humanitarian emergency. However, this is pure fiction. In the real world, this kind of decision-making and analysis is unlikely to

⁵⁶ PRST/1998/38, 29 December 1998.

happen at a single central level, whether national or international. Each country will view the situation differently. Country analyses will be made by different ministries, each from their own angle. All things considered, the situation in an ideal world is still a distant prospect.

The impediments to the achievement of integrated security policies lie firstly at UN level. Development matters are dealt with by the separate parts of the UN system, such as UNDP, UNICEF, financial (Bretton Woods) institutions, and other funds and programmes, whereas security policy is the responsibility of the Security Council and the UNSG. In addition, Security Council consideration of exit strategies for UN missions frequently focuses primarily on the military element. As a result, missions (including their civil elements) are sometimes terminated too early for post-conflict reconstruction to be successfully undertaken. In addition, the situation is further complicated by the many non-governmental organisations working on the ground. These frequently operate completely independently on the basis of their own agendas and find it extremely difficult to cooperate with military organisations.

At national level too, there are similar problems of coordination and harmonisation between political policymakers and those implementing development cooperation policies. Attempts to iron out the differences and create greater flexibility often fail to get off the ground, partly because rules drawn up by donors for the spending of development aid prove to be so tightly defined that they deprive policymakers of the flexibility needed to implement integrated security policies in practice. They make it all too easy to hide behind the criteria. The role of these criteria is discussed below.

Another practical constraint is the fact that development cooperation policy targets particular 'partner countries' and ascribes great importance to the criterion of good governance – something rarely featured by countries in the grip of conflict. This constraint is a particular obstacle to integrated security policies in failing states – an issue that will be discussed in greater detail in a forthcoming AIV/CAVV advisory report on failing states.

Attempts are being made to resolve these problems within the UN, for example by devising 'Strategic Frameworks' for post-conflict reconstruction in individual countries. However, participation in these integrated strategies by individual member states remains voluntary and no real solution has yet been found to this problem of coordination. The problem has been recognised in the Netherlands as elsewhere and efforts have been made to achieve greater coherence in the approach to development cooperation and security policy matters (for example, via the 1996 Review of Dutch Foreign Policy). The present government (in particular the Minister for Development Cooperation) is working hard to break down the barrier between the two areas of policy, as witness recent memorandums on the general thrust of development cooperation and on Africa policy.

IV.4 More demanding operations are now less frequently conducted by the UN and this makes it even more difficult to achieve an integrated approach

As already noted, crisis management operations tend now to be subject to more demanding mandates and to be less frequently conducted by the UN. These changes are also discussed in the request for advice. The first section of this report touched upon the possibility that this 'regionalisation' of crisis management may eventually affect parts of the world outside the Euro-Atlantic zone – for example, West Africa with

ECOMOG/ECOWAS⁵⁷ – subject to the necessary development of suitable capability in those regions.

The change to regional implementation is not making it any easier to coordinate the military component of international crisis management operations with the necessary international efforts to achieve post-conflict reconstruction. It is difficult enough to pursue integrated security policies at UN level, but where a crisis management operation is being conducted by NATO or an ad hoc coalition the cooperation of the various UN institutions with experience and expertise in the field of post-conflict reconstruction is not always a matter of course. In such cases, the international community will increasingly have to rely on parties other than the traditional UN funding and implementation agencies for the implementation and funding of post-conflict reconstruction. It may have to call on the resources of bilateral donors, of the EU and of NATO, or rely on the practical capabilities of the 'green helmet' military personnel involved in the operation. This will increase the risk that civil post-conflict reconstruction will take place in an unplanned and ad hoc manner.

NATO has traditionally confined its attention to the military aspects of security but in recent years the organisation has started to pay greater attention to problems of post-conflict reconstruction. It has done so, for example, based on past experience in Bosnia, by way of Civil Military Cooperation (CIMIC).⁵⁸

The European Commission has considerable development resources of its own.⁵⁹ Moreover, it should be in an ideal position to integrate the civil and military elements into a single set of policies, even though the areas of policy concerned are to some extent split between two different 'pillars' (with development cooperation policy coming under the Commission and European Security and Defence Policy being an entirely

57 ECOWAS: Economic Community of West African States. ECOMOG: Economic Community Cease-Fire Monitoring Group.

58 Civil Military Cooperation (CIMIC) is assistance given in the context of a crisis management operation and can consist of reconstruction activities (ODA) or, more broadly, any activities which facilitate contact between the military and the local population and promote 'force acceptance' (non-ODA). NATO has a CIMIC policy, but no CIMIC budget of its own. Funding for CIMIC activities undertaken in the context of NATO operations is made available by NATO allies out of bilateral resources. The bilateral donor can choose either to inject the funding directly via its own military personnel or to channel it via NATO CIMIC Group North (based in Budel, the Netherlands). The Netherlands devotes much attention to CIMIC and makes a standard sum of 50,000 available for each crisis management operation in which Dutch military personnel participate. This sum can be increased through the provision of additional funding for the supply of humanitarian assistance by Dutch military personnel in the operational area. Half of this extra funding comes from development cooperation resources and the other half from defence. A CIMIC policy framework has recently been agreed and was discussed on 12 February 2004 in the House of Representatives.

59 The main financial instrument for European Development Aid is the European Development Fund. This has a budget of € 13.8 billion for the five-year period to 2005. This budget is not part of the general Commission budget. Member States' contributions to the Fund are subject to negotiation and take account of a number of factors, including the size of their GNP. The Dutch contribution for the five-year period to 2005 is € 720 million. Large sums (totalling € 9.9 billion) are in fact still available from the previous five-year budget periods. See also www.Europa.eu.int/comm.development.

intergovernmental matter). If it can institutionalise a single, integrated set of policies encompassing both military and development elements, the EU may eventually become the ideal body to conduct integrated security operations. So far, however, it has not managed to do this. The ESDP is still in its infancy and the use of development resources is constrained by the same rigid rules as at the UN (see above and below). The recognition of the latter point by the Commission has led to the establishment of a Peace Fund that can be used in a more flexible way.⁶⁰

IV.5 The impact on Dutch ambitions of the conflict of interests between security policy and development cooperation

Various policy documents show that the Netherlands has in recent years committed itself to an integrated approach to conflicts. During the Dutch membership of the Security Council, 'the broad, integrated approach to conflicts and their underlying causes [was] one of the main policy priorities'.⁶¹ Likewise, recent policy memorandums issued by the Minister for Development Cooperation have stressed the nexus between security and development cooperation.⁶² The AIV warmly welcomes this emphasis on the importance of integrated security policies.

However, bilateral donors like the Netherlands experience various practical constraints on the development of activities at the interface of security policy and development cooperation. One is the rigid formulation of the criteria for the definition of Official Development Assistance (ODA) which they themselves have helped to set in multilateral forums. Another is the existence in many countries of strict national policy priorities, such as the Netherlands' partner country policy, and criteria like good governance.

The wish to work with countries displaying (or working to develop) good governance is perfectly understandable, as is the desire to concentrate bilateral development activities in a particular partner country or specific region, always bearing in mind the thinking behind the ODA criteria (to make it possible to compare donor performance). However, ideas like these offer too little flexibility for policymakers concerned with the

60 On 24 September 2003, the EU set up a new € 250 million 'Peace Fund', due to come into operation on 21 January 2004. The Fund is designed to support African peacekeeping capacity – preferably to be deployed in UN-mandated operations which are part of an integrated policy – and to implement paragraphs 1 and 4 of Article 11 of the Cotonou Agreement, which deal with the importance of integrated security policies. It may not be used for the procurement of military materiel or to pay troops. The Peace Fund's resources are drawn partly from the European Development Fund, as described in note 11. Because of the purpose of the Peace Fund, the resources transferred to it can no longer be regarded as ODA. For the time being, the European Commission is tolerating this situation ('the Commission does not consider the question of definition of ODA as a precondition for establishing and using the PF'), while at the same time referring to the ongoing debate within the DAC on the possible extension of the definition of ODA to include a number of carefully defined cases of support for regional crisis management. In this respect, the Peace Fund is to some extent comparable to the Dutch Stability Fund. See also: information note on the peace facility, DG Development, European Commission, 24 September 2003 (www.Europa.eu.int/comm.development).

61 Letter to the House of Representatives on the Netherlands' intentions with regard to membership of the Security Council, November 1998.

62 See, for example, 'Mutual Interests, Mutual Responsibilities'.

practical interpretation of integrated security policy. 'Post-conflict countries and countries that are at risk of destabilisation and violent conflict' – as the request for advice puts it – are ipso facto bereft of good governance (and are unlikely to be working to develop it). Frequently, countries in such situations find themselves excluded from bilateral partnership arrangements by the selection criteria. In the case of the Netherlands, this means that the only resources that can be deployed are the limited funds reserved for good governance, human rights and peacebuilding. More extensive resources are earmarked for humanitarian assistance, but the separate criteria in force for these do not always run parallel to integrated security policy. It is partly to fill such gaps in provision that the Netherlands' new Stability Fund has been set up. This will be discussed in more detail below, following a consideration of the constraints imposed by the ODA criteria.

Under the DAC agreements, development aid is supposed to benefit countries on the DAC list, to be used primarily to promote economic development, and to be made available on favourable financial terms. Support (loans and grants) for military purposes is specifically ruled out, the exclusion of the security sector being part of the original aim of the establishment of the DAC and the Bretton Woods institutions, according to which development and development assistance were to be at the service of peace.

The 1990s saw an increase in the number of activities at the interface of peace and development which did not meet the ODA criteria. The DAC responded to this development by establishing a Task Force and in 1997 the latter issued guidelines for the role of development cooperation in the prevention of armed conflict (a supplement to which was issued in 2001). The concrete result was a list of activities which might be eligible under a broader interpretation of the DAC criteria. These were all to be activities which had become more important as a result of the developments of recent years, but no consensus was agreed on what they might be. The activities discussed included: reform and training of the police and army (support for reforms in the police and justice field falling within the ODA criteria, but army reforms not), strengthening of policy planning and financial control in the security sector (non-ODA), conversion and demilitarisation (with a small number of activities, such as the demobilisation and reintegration of ex-combatants, qualifying to be considered as ODA).⁶³ This might be seen as a 'grey area'. On the one hand, there is a sympathetic understanding of the need for the activity from the security point of view; on the other, there is some hesitation about relaxing the ODA criteria in this respect because of the possible precedent created for the more general relaxation of the criteria.

Within this grey area, defence and development cooperation meet. The request for advice gives an example of this. Under the ODA criteria, it was impossible to provide assistance for the establishment of a civilian-controlled defence apparatus in Afghanistan, but possible to do so for the establishment of a police system. Likewise, the collection of weapons, restoration of infrastructure, training of public servants and police personnel, development of customs and border controls, and provision of advice on macroeconomic policy meet the criteria only if performed by UN peacekeeping forces, rather than by other foreign military personnel.

The AIV is against this categorical 'blue helmet criterion' and feels that the ODA criteria should be amended on this point. Developing countries should be enabled to conduct

63 For a complete overview, see DCD/DAC/STAT(2000)6.

crisis management operations in their own region, something which they are at the moment virtually or completely unable to do. To achieve this, support needs to be directed at building up civilian-controlled professional armies in such countries. Support of this kind could be provided by donors but does not qualify as development assistance under the current criteria. The AIV feels that it should qualify, subject to certain conditions.

The Netherlands sets itself the target of devoting 0.8% of GNP to development cooperation. This is in accordance with the OECD-DAC norm and is 0.1 per cent above the UN target of 0.7% of GNP. It puts the Netherlands in a shared 3rd or 4th place in the world ranking, equal to Luxembourg, behind Denmark and Norway, and directly ahead of Sweden, Belgium and Switzerland. Allies like Germany, France and the United Kingdom rank considerably lower, with expenditures of respectively 0.27%, 0.32% and 0.32% of GNP. Canada, a country with which the Netherlands often feels a close affinity, likewise comes – with 0.22% of GNP – well below the UN norm.⁶⁴

The AIV advocates a flexible interpretation of the 0.8% norm for development cooperation spending. It feels that the Netherlands should abandon the strict linkage to the ODA criteria where they create an obstacle to integrated security policy. The ODA norms were devised to ensure improved comparability of donor performance and hence a degree of 'peer pressure'. While the AIV feels that this aim is still valuable, it does not feel that it should outweigh the desire to pursue relevant and up-to-date policies.

This does not mean that the AIV advocates the complete abandonment of the 0.8% norm for the development cooperation budget. Nor does it advocate reformulating the ODA criteria to include strictly military spending by donor countries. The AIV is in favour of preserving the distinction between the specific responsibilities of development cooperation and defence so far as ODA figures are concerned. It is important to take account of the fact that ODA resources are under pressure right across the board, both in general and from the point of view of peace and security. The Dutch ODA budget for 2004, for example, faces two unexpected additional demands: changes in the allocation of export credit guarantees and a 100% increase in the allocation for the reception of asylum seekers in the first year.

The new Stability Fund is a valuable first step in the direction of creating the necessary flexibility. Activities at the interface of security policy and development cooperation can be financed out of the Fund, irrespective of whether they qualify as ODA. For that reason, the Fund may be regarded as something of a breakthrough. Its limited size (approximately 80 million) is unlikely to be sufficient to satisfy every need but only time will tell how great the need will be. The AIV feels that the Ministry of Defence should be consulted on the allocation of resources from the Fund (with due regard for the fact that they form part of the development cooperation budget).

IV.6 Dutch policy options for the creation of greater flexibility

In the light of the above, the AIV recommends the Dutch government to take the following action to create greater flexibility.

64 See www.oecd.org.

Internationally

The Netherlands should pursue its existing campaign to recruit support for a more flexible approach to the ODA criteria. A list of activities proposed for inclusion is given in the annex to this section. However, the relaxation of the criteria is a politically sensitive issue in the forum that decides on the matter by consensus (the DAC) and, all things considered, there seems to be no immediate prospect of achieving the more flexible approach to the ODA criteria advocated by the Netherlands. Even so, the campaign should continue, starting at the next High Level Meeting of the DAC (on 15 and 16 April 2004).

Nationally

It is sometimes forgotten that this is essentially a self-imposed problem created by the orthodox position adopted by the Netherlands in relation to the 0.8% of GNP target for ODA. The requisite flexibility of expenditure could be achieved if the Netherlands were prepared to retain the 0.8% target, while at the same time applying it in a more flexible way. This has always been a highly sensitive political issue in the Netherlands but the AIV sees excellent arguments for adopting a less orthodox position in the interests of developing a fully-fledged integrated security policy. In practical terms, this would make it possible to implement the activities which at present fail to meet the ODA criteria but which, according to the annex, are in the 'grey area'. The more relaxed approach should, however, be subject to the proviso that unused resources should revert to the ODA budget.

IV.7 Conclusions and recommendations

- The AIV feels that the move towards an integrated approach, including activities addressing both post-conflict reconstruction and security issues, is absolutely necessary to ensure the success of crisis management operations. Donors like the Netherlands should continue to insist on the importance of achieving a coordinated approach between the various independent agencies of the UN.
- At UN level there is insufficient effort to achieve coherence at a time when operations are increasingly taking place under the aegis of bodies other than the UN. It is significantly more complicated to structure the development of integrated security policies when operations are undertaken by ad hoc coalitions or by NATO. For this reason, efforts need to be made to establish integrated security policies through forums other than the UN. The EU and NATO should act as pioneers in this respect.
- In multilateral forums, the Netherlands should continue to call attention to the importance of activities in the 'grey area' between development cooperation and security policy. It is important to reach agreement on these in OECD-DAC.
- Because international agreement on this is only a distant prospect, the Netherlands should take immediate national action to relax its currently inflexible attitude to the inclusion of such activities in its budget for development cooperation. The AIV feels that the Netherlands' 0.8% of GNP target for total ODA spending should be preserved, but that the criteria for inclusion should be relaxed. The AIV feels that the development of integrated security policies is more important than the prestige attaching to a target figure. The development of such policies can be achieved by making it possible to use part of the national ODA budget to fund activities in the 'grey area' between development and security. Unused resources should revert to the ODA budget and the cost of mainstream crisis management activities should continue to be met by the Ministry of Defence.
- Post-conflict reconstruction activities undertaken as part of crisis management operations are no longer the exclusive preserve of UN peacekeepers. 'Green helmets'

are increasingly involved. However, the cost of such activities can only be counted as ODA if the work is done by UN 'blue helmets'. The AIV feels that this is wrong. Provided the activities are undertaken in a UN context (preferably under a UN mandate), it hardly matters who does the work on the ground.

- Developing countries should be enabled to conduct crisis management operations in their own region, something which they are at the moment virtually or completely unable to do. To achieve this, support needs to be directed at building up civilian-controlled professional armies in such countries. Support of this kind could be provided by donors but does not qualify as ODA under the current criteria. The AIV feels that it should qualify, subject to certain conditions. The categorical exclusion of support for the security sector is too rigid. Development-related activities undertaken by military experts in support of the development of the security sector should be included in the definition of ODA.

Annex to Section IV

The following is a list of categories of activities which, in the view of the AIV, should be included within the ODA criteria and under the Dutch budget for development cooperation.

1. Helping developing countries to establish and develop a civilian-controlled and transparently funded security sector

The aim would be to help the developing country achieve a security sector (police, justice system and armed forces) which is under the control of the civil authorities, is of adequate size (by international standards), operates in accordance with international norms (respect for human rights, Geneva Conventions, et cetera), and is capable of guaranteeing the security necessary to enable development to take place. The AIV feels that donor support for such processes should logically be counted as part of ODA and need not be limited to the police system, but could also relate to the military apparatus.

Such support could be provided via projects relating to matters such as: financial management, democratic control, training of military personnel to operate in accordance with international norms, and instituting democratic controls and civilian control of the security sector. This might be done, for example, through the secondment of current or former military personnel to ministries of defence in the recipient countries, in much the same way as has already been done successfully over the last few years with retired managers (under the Netherlands Management Cooperation Programme).

2. Helping developing countries to develop regional crisis management capacity and meet the additional costs of its deployment

The aim would be to help the developing country develop regional crisis management capacity and to meet the additional costs of its actual deployment within UN-mandated regional crisis management operations. Both elements should be included within the ODA criteria. It would be important, however, to ensure that assistance was provided only to meet the additional costs of deploying military personnel and not to meet the country's normal military overheads.

3. Civil activities performed by donor countries (or their military personnel) as part of a crisis management operation in developing countries

The aim would be to divorce the method of funding post-conflict reconstruction activities undertaken as part of crisis management operations from the issue of who actually does the work on the ground. The present criterion under which such activities are eligible for ODA funding only if they are undertaken as part of a UN operation (the 'blue helmet criterion') needs to be relaxed. The AIV feels that the existence of a UN mandate should be sufficient. It hardly matters who does the work on the ground. It could – given a UN mandate – be undertaken by a regional organisation or an ad hoc coalition.

Examples of such activities undertaken by military personnel from the donor country in the developing country might include:

- helping to slim down and restructure the security sector (including the military apparatus)
- decommissioning weapons surplus to the needs of the security sector;

- training defence forces to perform public order and other civil tasks in the community;
- deploying military observers to monitor elections, patrolling cease-fire lines and implementing peace agreements;
- detecting, seizing, clearing and removing arms and explosives;
- deploying military resources to control borders (assisting/training customs officials);
- establishing and maintaining medical facilities (field hospitals and primary care centres) for the local population;
- deploying military resources to transport injured members of the local population;
- the detection, seizure, clearing and removal of arms and explosives is a useful part of any operation but also benefits the local population;
- monitoring activities by military teams to help analyse the security situation in the country concerned.

V Conclusions and recommendations

This report focuses on three issues of current interest regarding the role of the Netherlands in crisis management operations: the organisation of the armed forces, the decision-making process for the deployment of military personnel, and the development of integrated security policies.

V.1 General background

The first section outlines the security situation and the main trends in crisis management during the 1990s. The disappearance of the Soviet menace brought about major changes in the strategic situation and the nature and extent of 'new threats' emerged. Against a background of the increasing dependence of Western societies on advanced information technology (and therefore increasing vulnerability in that respect), the emerging threats are from factors such as the proliferation of weapons of mass destruction, the growth in international crime and terrorism, the increasingly complex nature of conflicts, their often intra- as well as inter-state character, and the increased role of violent non-state actors and the importance of the refugee problem. In addition, global interdependence has increased and distance has lost some of its power to protect. The distinction between internal and external security is becoming increasingly blurred.

In the crisis management field, a number of traumatic experiences (Somalia, Rwanda, Yugoslavia and Sierra Leone) have forced the UN and its member states to temper the optimism of the early '90s and to recognise that there are limits to what the UN can take on as regards the execution of crisis management operations at the higher end of the spectrum of force. Crisis management operations with more demanding mandates are now more frequently undertaken by ad hoc coalitions and regional organisations. The need for an integrated approach combining military action and civil assistance has also become clearer.

Armed forces in Western Europe have turned themselves into organisations directed at extra-territorial crisis management. Defence budgets have declined to match. At the same time, new threats have emerged. The result has been twofold: a greater need for additional reasons for military action abroad and a renewed awareness of the need for homeland defence. Countries like the United States, the United Kingdom, France, Norway and Canada have responded by reversing the decline in their defence budgets, while the Netherlands and Germany have continued to make cuts. Declining budgets and a demanding ongoing range of tasks have made wider cooperation between the armed forces of different member states a necessity. Since 1998, the EU has been working rather tentatively to develop its own security and defence policy and NATO has focused increasingly on crisis management and the fight against international terrorism. It has remained difficult to deal with conflicts in regions not (yet) capable of resolving them themselves, especially in Africa, where the humanitarian consequences of conflicts are severe but Western countries see little potential benefit to themselves to justify the risks of military intervention. The necessary development of genuinely integrated security policies in conflict areas also continues to be a difficult challenge.

This is the background against which this report addresses the questions that the government put to the AIV on 29 October. It shows that the three apparently quite separate

issues are in fact interrelated. Nevertheless, the AIV does not claim that its discussion of the three areas constitutes a comprehensive overview of the entire crisis management field.

V.2 The organisation of the armed forces

In the first question in its request for advice, the government asks to what extent the more demanding nature of crisis management operations calls for further changes in the organisation of the Dutch armed forces.

- *The AIV shares the government's view that there is a trend towards a hardening in the environment in which crisis management operations take place, but does not think that this development is exclusively due to the increased complexity and intra-state character of conflicts: international terrorism is another major factor. It complicates the conduct of crisis management operations because of the risk of reprisals in the operational area or in the homeland. However, international terrorism is also a threat in itself and may for that reason provide the motivation for international action. The AIV adds that the more traditional type of peace operation, usually undertaken under the aegis of the UN, has not disappeared. Such operations will remain important because they help to guarantee stability in areas where tensions have the potential to produce outbursts of violence.*

The government asks the AIV whether the more demanding nature of today's crisis management operations should have consequences for the organisation of the Dutch armed forces. The question is set against the background of the sweeping cuts and structural changes recently decided by the government.

- *The AIV does not think that this is an appropriate time to offer radical advice on the organisation of the armed forces. It also concludes that, in the light of the level of ambition formulated by the government, the manpower and equipment requirements of 'initial entry' and 'follow-on' operations do not provide any clear criteria for the establishment of explicit priorities for the reorganisation of the armed forces. Moreover, the use of these terms can give rise to confusion. For this reason, the AIV prefers to refer the government to the view expressed in its 1999 report to the effect that, in thinking about the development of Dutch security policy, it is impossible to draw any hard and fast distinction between crises and tensions at the lower and upper ends of the spectrum of force. The events of recent years have merely given added weight to this opinion. In view of the government's desire to pursue an active security policy and the country's position in the world, the Netherlands should certainly not avoid contributing to 'initial entry' operations and should maintain a flexibly deployable advanced capability for this purpose.*

Even after the cuts currently proposed, the requisite flexibility will still be preserved, albeit on a smaller scale. Where a problem may arise is with the capability to sustain operations over longer periods. The cuts imposed (sometimes resulting in the abandonment of the traditional triple rotation method), the need to conduct several crisis management operations simultaneously, and the influence of training cycles, recruitment and logistics will inevitably have an impact.

- *The AIV is doubtful whether the sustainability capability provided by current levels of human resources and materiel will be sufficient to achieve the level of ambition defined by the government.*

The tasks of the armed forces are not confined to crisis management. They include action in the Netherlands Antilles and providing support in case of disasters and emergencies. 'Homeland Defence' has also acquired new significance as a result of the war on terrorism – even if it is not yet clear what demands this will make on the resources of the armed forces.

- *The AIV feels that more attention should be paid to the role of the National Reserve Corps. Without wishing to suggest that the Netherlands should take no part at all in traditional peace operations, it also recommends that priority should be given to deployments for participation in more complex operations at the higher end of the spectrum of force, since this is where the best use can be made of the advanced capabilities of the Dutch armed forces.*
- *The deployment of the Dutch armed forces in the higher regions of the spectrum of force, as the AIV advocates, demands both from the government and from parliament the political will to accept the consequences. The AIV feels that the public is in general prepared to accept the consequences of the deployment of military units in these circumstances, provided that the aims are made sufficiently clear. This is a task for the government and parliament.*

V.3 Decision-making procedures

In response to the question on decision-making procedures, section III considers the necessary consequences of increased military cooperation for current Dutch decision-making procedures and the involvement of parliament.

Article 97 of the Dutch Constitution specifies the purposes for which the armed forces may be deployed, namely for 'the defence and protection of the interests of the Kingdom, and in order to maintain and promote the international legal order'. Article 100 prescribes the involvement of the States General if the armed forces are to be deployed or made available to maintain or promote the international legal order. This is to take the form of the supply of advance information on the intended use of the armed forces, so that the matter can be discussed with the States General. The Framework of Reference must be seen as a 'checklist' for the exchange of views between the government and parliament.

Dutch decision-making on the deployment of military personnel can relate to deployment in the context of UN operations, within various types of NATO settings, and within other types of multinational force. Section III describes how these various procedures work in practice and shows that deployments fall into two categories.

The first category is that of deployments in contexts where the procedure is to request troop contributions on a case-by-case basis. This is the practice in relation to UN operations and also as regards the constitution of NATO and EU forces. Although these cases involve a hybrid process, coordination of national decision-making on them is relatively straightforward.

The second category is that of deployments in the context of standing forces like those of NATO, the various multinational forces to which the Netherlands contributes and also the new NATO Response Force. Coordination of national and international decision-making is more complicated in these cases. Decision-making takes place in three phases: firstly, establishment of the force and the Dutch decision to make a serious contribution to it; secondly, allocation of specific units; and, thirdly, deployment of the military force in a specific situation.

However, Dutch decision-making procedures and parliamentary involvement in them are concentrated in the third phase.

- *The AIV recommends that the implications of the decision-making process in the first two phases should be fully recognised – both by the government and by parliament.*
- *Amendment of the Frame of Reference is not a solution since the document is a tool for decision-making in phase 3. Therefore, the AIV recommends that more attention should be paid to the previous two phases, especially that of allocation. The relevant parts of the Frame of Reference should be used in decision-making at that stage.*
- *Although, as already noted, the solution will not lie in an amendment of the Frame of Reference, it is nevertheless worth considering improving the Frame of Reference in this respect. For the sake of completeness and clarity, it should pay more systematic attention to the process of decision-making in the first two phases. The question of whether the contribution is part of a standing multinational force should also be considered. For example, a new consideration could be introduced: description of the decision-making process preceding deployment/nature of the multinational force/state of play regarding decision-making in the partner country/among allies.*

The discussion of the NRF raises the question of the ‘overlap’ between the two purposes specified in Article 97 of the Constitution. After all, the NRF is intended to be deployed in both Article 5 and Non-Article 5 situations. The AIV recognises the potential for this overlap. Indeed, it is likely to be the result of the current blurring of the distinction between internal and external security. Situations may well arise in which deployment may equally well be argued to be for either of the purposes specified in Article 97.

- *In the opinion of the AIV, a fair interpretation of the wording of Article 100 of the Constitution requires that, where deployment is intended for both purposes and the purpose of maintaining and promoting the international legal order plays a not inconsiderable role, the government should follow the information procedure specified in Article 100. Not inconsiderable means significant, but not necessarily predominant. The way in which the various terms (‘interests of the Kingdom’, ‘promote the international legal order’, ‘significant role’, et cetera) should be interpreted in a particular situation will be decided in the first instance by the government. Where one factor is clearly predominant, this should be taken as the main indicator of whether or not Article 100 applies. The government should aim to be consistent in its choices in this area. The choice made by the government in any particular case will, of course, be subject to the general democratic control of parliament. It is certainly not the intention of the AIV to extend the scope of application of Article 100 to include the other purposes specified in Article 97, in relation to which Article 100 imposes on the government no obligation to inform parliament.*
- *The AIV sees the procedure adopted in the case of the deployment of Dutch troops in Afghanistan as an example of how, in practice, the government interprets its constitutional obligations in favour of involving parliament where there is any doubt about the strict necessity of doing so.*
- *Rapid decision-making in the case of ISAF suggests that the speed required in relation to any deployment of the NRF should be no problem. The issue of deployment in special operations requiring secrecy is covered by the current provisions of the Constitution.*

V.4 Integrated security policies

Section IV addresses the issue of whether current efforts by the international community take a sufficiently integrated approach to the problem that 'In post-conflict countries and countries that are at risk of destabilisation and violent conflict, security, stability and development are closely linked' and examines the role of the criteria established by the OECD's Development Assistance Committee (DAC) to define pure development assistance (ODA).

An integrated approach needs to encompass many different components. This is now generally agreed.

- *The AIV believes that a broad approach of this kind is absolutely necessary to ensure the success of crisis management operations.*

Too little has yet been done in practice to develop what are termed integrated security policies. Existing structures are an obstacle to this, at both multinational and national level.

- *The AIV believes that the constraints imposed by policies emphasising good governance, partner countries and ODA targets impede the development of integrated security policies.*

The Netherlands sets itself the target of devoting 0.8% of GNP to development cooperation. This is in accordance with the OECD-DAC norm.

- *The AIV advocates a flexible interpretation of the 0.8% norm for development cooperation spending. It feels that the Netherlands should abandon the strict linkage to the ODA criteria where they create an obstacle to integrated security policy. The ODA norms were devised to ensure improved comparability of donor performance and hence a degree of 'peer pressure'. While the AIV feels that this aim is still valuable, it does not feel that it should outweigh the desire to pursue relevant and up-to-date policies.*
- *This does not mean that the AIV advocates the complete abandonment of the 0.8% norm for the development cooperation budget. Nor does it advocate reformulating the ODA criteria to include strictly military spending by donor countries. The AIV is in favour of preserving the distinction between the specific responsibilities of development cooperation and defence so far as ODA figures are concerned.*
- *The AIV realises that ODA resources are under pressure right across the board, both in general and from the point of view of peace and security. The Dutch ODA budget for 2004, for example, faces two unexpected additional demands: changes in the allocation of export credit guarantees and a 100% increase in the allocation for the reception of asylum seekers in the first year.*
- *In the view of the AIV, international action should be taken to bring about a change in the ODA criteria. There are activities in the 'grey area' between security policy and development cooperation which the AIV thinks could be brought within the ODA criteria. The AIV feels that the categorical exclusion of support for the security sector in developing countries is too rigid. In addition, developing countries should be enabled to conduct crisis management operations in their own regions, something which at the moment they are virtually or completely unable to do. To achieve this, support needs to be directed at building up civilian-controlled professional armies in such countries. The same applies to the 'blue helmet' criterion under which activities can only be counted as ODA if the work is done by UN troops. The AIV feels*

that this is wrong. Provided that the activities are undertaken in a UN context (preferably under a UN mandate), it hardly matters who does the work on the ground. The AIV has listed some examples.

- *The AIV judges the establishment of the new Stability Fund to be a valuable first step in the direction of creating the necessary flexibility. Its limited size seems unlikely to be sufficient but only time will tell. The AIV also feels that the Ministry of Defence should be consulted on the allocation of resources from the Fund (with due regard for the fact that they form part of the development cooperation budget).*

In conclusion, the AIV would make the following two observations in relation to 'integrated security policies'.

- *Firstly, decision-making on the deployment of military personnel could take explicit account of the extent to which deployment is consistent with the concept of 'integrated security policy'. This consideration could be added to the current ones listed in the Frame of Reference and discussed in section 3.*
- *Secondly, the AIV would point out that whereas the level of ambition in relation to crisis management operations can be adjusted downwards without much discussion (see section II), flexible application of the criteria in the development cooperation field seems to be a far more politically controversial issue (see section IV). This is a reality of political life in the Netherlands, but is still astonishing. It is inevitable that frictions will arise between two areas of policy in which budgets are set in such different ways (in development cooperation as a set percentage of Gross National Product, in Defence on the basis of political criteria which are easy to change). The AIV stresses that this fundamental point needs to be resolved at political level: choices must be made at that level and financial resources tailored to policy priorities in order to achieve a closer alignment of government ambitions in these two areas.*

Annexes

Ministry of Foreign Affairs
Postbus 20061
2500 EB Den Haag
Tel. 070-348 6486

Ministry of Defence
Postbus 20701
2500 ES Den Haag
Tel. 070-318 8188

Mr F. Korthals Altes
Chairman of the Advisory Council
on International Affairs
2500 EB Den Haag

Our ref.: DVB/CV-253/03

Date: 29 October 2003

Re: Developments in crisis management: implications for the Netherlands

Dear Mr Korthals Altes,

Introduction

Negative experiences in Somalia, Rwanda and Bosnia-Herzegovina prompted a reconsideration of peace operations in the mid-1990s. In its report 'Lost Innocence' of March 1996, the Advisory Council on Peace and Security (AVV) drew lessons from these experiences in a series of recommendations. Since then, there have been further developments in peace operations – not only in the way they are conducted, but also in the institutional and procedural frameworks within which national and international decision-making takes place. Against this background, the government requests the AIV for an advisory report on the implications of these developments for the Netherlands, with particular emphasis on the following elements.

Most of today's armed conflicts are highly complex and take place within states. Furthermore, they are often associated with humanitarian emergencies. This makes it both more difficult and more urgent for the international community to intervene. Intervention in such conflicts requires an international force with enough authority and resources to keep the situation under control, even when the security situation deteriorates. Such a force therefore needs an adequate mandate. It must also be equipped and prepared to fight, if necessary, irrespective of whether it uses force on behalf of one of the parties and or whether it has the permission of the parties to the conflict.

For some time there has been an unmistakable trend towards more 'robust' mandates based on Chapter VII of the UN Charter, rather than Chapter VI. This gives troops more authority to use force in completing their mission. At the same time, however, a mandate must always be feasible. It must be clear what the troops are expected to do and, preferably, what they are not expected to do. The latter applies particularly in the case of such large-scale, wide-ranging tasks as protecting the civilian population or separating the warring parties. Finally, the scale and composition of the intervention force must of course be tailored to the task in hand and the security situation in which it will be required to operate.

A report issued in 2000 by a UN panel under the chairmanship of Lakhdar Brahimi (Algeria) stated that, while the UN now had considerable experience of traditional peace operations, it was not well equipped to carry out 'heavier' operations in a complex setting. The UN therefore often leaves such operations to a regional organisation such as NATO, ECOWAS or the EU. Another trend has seen the UN mandating an ad hoc coalition of countries that are willing and able to carry out a military intervention. Command over such a UN-mandated coalition is generally in the hands of a lead nation. The United Kingdom, Turkey and the Netherlands/Germany have all taken command of ISAF, for example. Although this trend looks likely to continue, few countries are willing and able to lead a long-term operation. As has been seen with ISAF, however, after a time there is a need for more continuity of leadership. This can be provided by structural involvement on the part of an organisation such as NATO, the EU or the UN. NATO supported ISAF for a time, and is now in fact leading the operation. It is also to support the Polish division participating in the stabilisation force in Iraq. This marks the de facto start of NATO out-of-area deployment.

In recent years, successive peace enforcement operations have followed on from armed intervention or armed conflict. Consider, for example, Kosovo, Afghanistan and Iraq, where a stabilisation phase set in after deployment of heavy military resources. This meant that international forces already on the ground had to fulfil a different role. An initial entry military stabilisation force in the crisis area can thus find itself in a situation where there is no adequate administrative or power structure.

In view of the above, we should like to put the following questions to the Council.

1. The Dutch armed forces

The implementation of crisis management operations, including those involving a high degree of force, is one of the main tasks of the armed forces. Since the early 1990s the Netherlands has taken part in no fewer than nine major operations, supplying considerable numbers of troops. In the future, the Netherlands' level of participation in crisis management operations will be determined not only by the aim of each operation, but also by the way in which the Dutch armed forces are able to fulfil the new requirements of such operations. This last consideration also played a major role in the decisions on where the Ministry of Defence is to step up or cut back its activities over the next ten years, a letter on which was received by the House of Representatives on 16 September. The question is: *What will be the implications of 'heavier' crisis management operations for the Dutch armed forces? In particular: should the organisation of the armed forces focus on its initial entry capability, alongside its capacity to contribution to a follow-on force, including its stabilisation function?*

2. National decision-making

In crisis management operations, the Netherlands always acts as part of an international force. Before making military units available for the promotion and enforcement of the international legal order, the government informs the States General, in accordance with Article 100 of the Constitution. The national decision-making procedure on the deployment of troops to which Article 100 applies is set out in the 2001 Frame of Reference for decision-making for the deployment of military units abroad. In this connection, the recommendations of the ad-hoc committee set up to consider decision-making on troop deployment (2000) – which have largely been adopted by the government – are also important.

In recent years, various initiatives have been undertaken to set up multinational military units, such as the planned NATO Response Force and its European counterpart. The Dutch armed forces also engage in bilateral cooperation with a number of countries. In its recent

advisory report on military cooperation in Europe, the AIV argues that nation states will have to relinquish some of their decision-making power if such operations are to be successful. It is not clear how the further embedding of Dutch units in multinational military alliances will impact on national decision-making procedures. The question is therefore: *Would it be appropriate to amend the Frame of Reference for the deployment of units, or can the procedures be changed in such a way that the need for rapid expeditionary collective intervention can be met, while still guaranteeing the involvement of parliament?*

3. Integrated policy on security and development

In post-conflict countries and countries that are at risk of destabilisation and violent conflict security, stability and development are closely linked. It is not clear whether current efforts by the international community – including the Netherlands – take a sufficiently integrated approach to these issues. Such countries need security and stability in order to develop. Effective management and resolution of crises are also essential. After all, it is the poor who suffer most from insecurity, human rights abuses and the social and economic impact of destabilisation. Like health care and education, security is a public good, which also has a bearing on development.

Consequently, activities in these countries designed to enhance their capacity to maintain peace and security in the long term are part of the process of state formation. As in other areas (justice, police, finance etc.), state formation in the security sector is essential for development. Activities designed to guarantee security, which include support for the creation of a security apparatus under civilian control encompassing both the armed forces and the police, are equally relevant to development. The current OECD Development Assistance Committee's (DAC) criteria for Official Development Assistance (ODA) rule out support for military components of the security sector, however. Experience in Afghanistan, Bosnia-Herzegovina and the Great Lakes region of Africa have raised doubts as to whether this is appropriate. How, for example, would the transformation of a group of 250,000 fighters led by warlords in Afghanistan into an armed force of 70,000 under civilian control to form a defence apparatus (which is currently non-ODA) be less relevant to development than the creation of an Afghan police apparatus (which is currently eligible for ODA)?

The ODA criteria do however permit a limited number of crisis management activities performed by troops as part of peace operations. The net additional costs incurred for the following activities are ODA-eligible: support for human rights, election monitoring, reintegration of demobilised soldiers, decommissioning of their weapons, repair of basic infrastructure, supervision and training of civil servants and police officers, customs, border controls, macroeconomic policy advice, and humanitarian mine clearance operations. In the past, these activities have been performed largely by UN troops ('blue helmets'). The criteria allow for 'similar' activities to be included in ODA outside the UN framework, although only election monitoring, human rights activities, mine clearance and demobilisation are actually specified. Other activities are not always reported to the OECD-DAC as ODA if they are not carried out by blue helmets.

In the view of the government, it is undesirable for such lack of clarity to persist regarding interpretation of the OECD-DAC criteria for ODA. This lack of clarity, which also exists at international level, has led to a persistent division between peace and security policy on the one hand and development policy on the other.

This prompts the final set of questions: *How does the AIV regard this issue and the need for a change in policy? How can Dutch and international integrated security policy be given*

further substance, and placed firmly on the agenda? What opportunities does the AIV believe the stability fund will offer in this regard? How does the AIV view the role of the ODA definition in the formation of integrated policy? Does the AIV believe the ODA criteria should be amended? In other words: Does the division between ODA and non-ODA limit the options for effective national and international action for peace, security and development? As regards the role of the armed forces: what military activities does the AIV regard as relevant to development and should the ODA criteria be amended to reflect this? This mainly concerns efforts to strengthen local security structures and the role of the international community and of Dutch troops. Could the Dutch armed forces play a greater role in providing technical assistance for the reconstruction of a country, for example, in the framework of integrated security policy, particularly in the security sector, and in weapons decommissioning, demobilisation and reintegration programmes?

J.G. de Hoop Scheffer

H.G.J. Kamp

(Signed)
MINISTER OF FOREIGN AFFAIRS

(Signed)
MINISTER OF DEFENCE

A.M.A van Ardenne-van der Hoeven

(Signed)
MINISTER FOR DEVELOPMENT COOPERATION

Mr F. Korthals Altes
Chairman of the Advisory Council
on International Affairs
Postbus 20061
2500 EB Den Haag

The Hague
19 February 2004

Dear Mr Korthals Altes,

On 29 October 2003, the Minister for Defence, the Minister for Development Cooperation and I submitted three questions for your consideration relating to developments in crisis management and their implications for the Netherlands.

One of the subjects of the letter was that possible embedding of Dutch units in multinational forces might have consequences for the national decision-making procedure for deploying Dutch military units to maintain and promote the international legal order. This is why we put the following question to you: Would it be appropriate to amend the Frame of Reference for the deployment of units, or can the procedures be changed in such a way that the need for rapid expeditionary collective intervention can be met, while still guaranteeing the involvement of parliament?

On 4 February 2004, the Senate debated the bills for adopting the 2004 budget statement of both the Ministry of Defence (Chapter X of the national budget) (2900200-X) and Ministry of Foreign Affairs (Chapter V of the national budget) (29200-V, NATO section). During the debate, the question arose of possible overlap of the objectives for deployment of Dutch military units both "for the defence and protection of the interests of the Kingdom" and "to maintain and promote the international legal order" (Article 97(1) of the Constitution). Some speakers asserted that overlap would have consequences for the involvement of parliament, in particular, as regards the obligation to inform [it] in advance in accordance with Article 100 of the Constitution.

The Minister of Defence and I would request that you also deal with this point – possible overlap of objectives and its consequences for the involvement of parliament in the decision-making process – in your advisory report on the previous question regarding the national decision-making procedure for deployment of Dutch military units to maintain and promote the international legal order.

Yours sincerely,

Bernard Bot
Minister of Foreign Affairs

List of abbreviations

AIV	Advisory Council on International Affairs
CEI	Advisory Council on Issues of Public International Law
CIMIC	Civil Military Cooperation
DAC	Development Assistance Committee
DC	Development Cooperation
ECOMOG	Economic Community Cease-Fire Monitoring Group
ECOWAS	Economic Community Of West African States
EADTF	Extended Air Defence Task Force
ISAF	International Security Assistance Force (Afghanistan)
ESDP	European Security and Defence Policy
EU	European Union
NAC	North Atlantic Council
NATO	North Atlantic Treaty Organisation
NRF	NATO Response Force
ODA	Official Development Assistance
OECD	Organisation for Economic Cooperation and Development
PSC	Political and Security Committee
SC	Security Council
SHIRBRIG	Standing High Readiness Brigade
UNMEE	United Nations Mission in Ethiopia and Eritrea
UNTAET	United Nations Transitional Authority in East Timor
UK	United Kingdom
UNSG	Secretary-General of the United Nations
UN	United Nations
US	United States of America

Previous reports published by the Advisory Council on International Affairs

- 1 AN INCLUSIVE EUROPE, *October 1997*
- 2 CONVENTIONAL ARMS CONTROL: urgent need, limited opportunities,
April 1998
- 3 CAPITAL PUNISHMENT AND HUMAN RIGHTS: recent developments,
April 1998
- 4 UNIVERSALITY OF HUMAN RIGHTS AND CULTURAL DIVERSITY,
June 1998
- 5 AN INCLUSIVE EUROPE II, *November 1998*
- 6 HUMANITARIAN AID: redefining the limits, *November 1998*
- 7 COMMENTS ON THE CRITERIA FOR STRUCTURAL BILATERAL AID,
November 1998
- 8 ASYLUM INFORMATION AND THE EUROPEAN UNION, *July 1999*
- 9 TOWARDS CALMER WATERS: a report on relations between Turkey
and the European Union, *July 1999*
- 10 DEVELOPMENTS IN THE INTERNATIONAL SECURITY SITUATION IN THE 1990s:
from unsafe security to unsecured safety, *September 1999*
- 11 THE FUNCTIONING OF THE UNITED NATIONS COMMISSION ON HUMAN RIGHTS,
September 1999
- 12 THE IGC AND BEYOND: TOWARDS A EUROPEAN UNION OF THIRTY MEMBER
STATES, *January 2000*
- 13 HUMANITARIAN INTERVENTION, *April 2000**
- 14 KEY LESSONS FROM THE FINANCIAL CRISES OF 1997 AND 1998, *April 2000*
- 15 A EUROPEAN CHARTER OF FUNDAMENTAL RIGHTS?, *May 2000*
- 16 DEFENCE RESEARCH AND PARLIAMENTARY SCRUTINY, *December 2000*
- 17 AFRICA'S STRUGGLE: security, stability and development, *January 2001*
- 18 VIOLENCE AGAINST WOMEN: LEGAL DEVELOPMENTS, *February 2001***

* Issued jointly by the Advisory Council on International Affairs (AIV) and the Advisory Committee on Issues of Public International Law (CAVV)

** Also available in French and Russian.

- 19 A MULTI-TIERED EUROPE: the relationship between the European Union and subnational authorities, *May 2001*
- 20 EUROPEAN MILITARY-INDUSTRIAL COOPERATION, *May 2001*
- 21 REGISTRATION OF COMMUNITIES BASED ON RELIGION OR BELIEF, *June 2001*
- 22 THE WORLD CONFERENCE AGAINST RACISM AND THE RIGHT TO REPARATION, *June 2001*
- 23 COMMENTARY ON THE 2001 MEMORANDUM ON HUMAN RIGHTS POLICY, *September 2001*
- 24 A CONVENTION, OR CONVENTIONAL PREPARATIONS? The European Union and the ICG 2004, *November 2001*
- 25 INTEGRATION OF GENDER EQUALITY: a matter of responsibility, commitment and quality, *January 2002*
- 26 THE NETHERLANDS AND THE ORGANISATION FOR SECURITY AND COOPERATION IN EUROPE IN 2003: role and direction, *May 2002*
- 27 BRIDGING THE GAP BETWEEN CITIZENS AND BRUSSELS: towards greater legitimacy and effectiveness for the European Union, *May 2002*
- 28 AN ANALYSIS OF THE US MISSILE DEFENCE PLANS: pros and cons of striving for invulnerability, *August 2002*
- 29 PRO-POOR GROWTH IN THE BILATERAL PARTNER COUNTRIES IN SUB- SAHARAN AFRICA: an analysis of poverty reduction strategies, *January 2003*
- 30 A HUMAN RIGHTS BASED APPROACH TO DEVELOPMENT COOPERATION, *April 2003*
- 31 MILITARY COOPERATION IN EUROPE: possibilities and limitations, *April 2003*
- 32 BRIDGING THE GAP BETWEEN CITIZENS AND BRUSSELS: towards greater legitimacy and effectiveness for the European Union, *April 2003*
- 33 THE COUNCIL OF EUROPE: less can be more, *October 2003*

Advisory letters issued by the Advisory Council on International Affairs

1. The enlargement of the European Union, 10 December 1997
2. The UN Committee against Torture, 19 August 1999
3. The Charter of Fundamental Rights, 9 November 2000
4. The Dutch presidency of the EU in 2004, 15 May 2003*
5. The results of the Convention on the Future of Europe, 28 August 2003
6. From internal to external borders. Recommendations for developing a common European asylum and immigration policy by 2009, 12 March 2004

* Joint report by the Advisory Council on International Affairs (AIV) and the Advisory Committee on Aliens Affairs (ACVZ)