

# CONNECTIONS

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# The Georgia Crisis: Implications for the Partnership for Peace

Graeme P. Herd and Daniel A. Flesch \*

## Introduction: The Immediate Context

On 7 August 2008, Georgia attacked Tskhinvali, the capital city of South Ossetia, with heavy artillery, rocket launchers, and ground troops in an attempt to take control of the breakaway republic, which contained bases of both Russian and OSCE peacekeepers. Russia, claiming to be acting under the mandate of peace enforcement, pushed Georgia out of both South Ossetia and another breakaway Georgian republic, Abkhazia, and deep into Georgian territory. This created the potential for regime change, as the Russian Army appeared to be moving on Tbilisi with the intent of overthrowing Georgia's democratically elected government. On 8 August 2008, Russian military forces crossed the Georgian border into South Ossetia and Abkhazia in a successful effort to repulse Georgian troops. The immediate *casus belli* for Russia was genocide, with claims that "over two thousand" South Ossetians had been killed by Georgian troops, along with the shooting of ten Russian peacekeepers in South Ossetia, which necessitated a humanitarian and peace enforcement operation. The Russian advance included ground troops, tanks and armored personnel carriers, and air and sea operations, combined with coordinated kinetic and cyber attacks. Russian forces also crossed into Abkhazia in defense of their compatriots – 70 percent of the Abkhaz population of 220,000 are Russian passport holders, and 90 percent of the South Ossetian population of 70,000 are also Russian citizens.

Russia continued its assault beyond the borders of the breakaway republics, advancing well into Georgia, capturing the strategic military base near Senaki, and proceeding as far as the Black Sea port city of Poti, to sink Georgian vessels and complete its naval blockade, destroying or removing military hardware and materiel along the way. The United States, along with the member states of NATO and the EU, understood this advance to constitute an escalation of the conflict and questioned Russia's need to establish a "security zone" beyond the South Ossetian and Abkhazian borders inside Georgia proper. The short-term international response focused on brokering a ceasefire, sending humanitarian aid to Georgia and North Ossetia, increasing the presence of international monitors in the region, and returning the parties to their pre-conflict positions. Longer-term responses focused on analyzing the geo-strategic impact of the crisis on regional stability and on relations between Russia and the West, and consequently on developing an appropriate policy response. Both sides in the conflict attempted to claim legitimacy for their actions. For Georgia, the breakaway republics

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\* Dr. Graeme P. Herd is a resident faculty member at the Geneva Centre for Security Policy (GCSP)—a PfP Training Center—where he is co-director of the 23<sup>rd</sup> International Training Course and 3<sup>rd</sup> Masters in Advanced Studies (MAS) in International and European Security. Daniel A. Flesch is a Political Science & History Major at the University of Illinois at Urbana-Champaign and was an intern at the GCSP from September to December 2008.

have long presented a national security issue related to its very statehood, as they touch on Georgian sovereignty and territorial integrity. For Russia's part, it feels that a threat to its national security will arise if Georgia becomes a member of NATO, and if the Alliance is enlarged to include other states in the Black Sea littoral. Moscow would view these developments as part of a concerted pattern of Western encirclement – including such steps as the installation of Ballistic Missile Defense systems in Eastern Europe; Kosovo's unilateral declaration of independence; the Conventional Forces in Europe Treaty; the so-called color revolutions in Ukraine and Georgia, which Moscow understands as CIA/Soros Foundation-sponsored, post-modern *coups d'état*; and the post-9/11 presence of U.S. bases in Central Asia. Moscow interpreted these steps, along with Western support of Georgian actions against its breakaway republic, as signs of a pattern of encroachment and containment that Russia was determined to halt and roll back.

Russia viewed its intervention as a military, political, and strategic victory. President Medvedev referred to 8/08/08 as “Russia's 9/11”: “the United States and the whole of humanity drew many lessons from September 11, 2001. I would like to see August 8, 2008 result in many useful lessons as well.”<sup>1</sup> However, the Georgia crisis created additional points of tension between Russia and the West, rather than resulting in a shared perspective. These tensions centered on the proportional use of force by Russia, Russia's compliance (or lack thereof) with UN Security Council Resolution 1808 (which recognizes Georgia's territorial integrity and sovereignty), and Russia's recognition of South Ossetia and Abkhazia as independent states. In addition, after President Medvedev of Russia and President Saakashvili of Georgia signed a ceasefire (brokered by President Sarkozy of France), growing differences in interpretation of the ceasefire between Russia, the EU, and Georgia increased tensions, as did ambiguities within the ceasefire agreement itself. For example, Russia understood the agreement to provide for a buffer zone within Georgia proper, while the U.S. and EU argued that the ceasefire did not allow for this interpretation.

When one analyzes the motives behind the aggressors' actions, their different geo-strategic goals can be seen as further exacerbating these tensions. Russia claims it was acting to protect civilians holding Russian passports in the breakaway republics, but many believe their real strategic objective was to destabilize Georgia and cement Russian control over the energy pipeline running through Georgia, further increasing Europe's dependence on Russian energy resources. Supplies of energy flowing through Georgia to Europe have been cut by an estimated one million barrels per day, and Europe is already (as of November 2008) feeling the impact of the crisis, as three percent of its oil comes through the Baku-Tbilisi-Ceyhan pipeline.

While much of the recent literature on the situation in Georgia has focused on analysis of the South Ossetia crisis and its implications, little attention has been given to viewing the crisis from the perspective of the Partnership for Peace (PfP). What do

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<sup>1</sup> Janet McBride, “Medvedev Condemns Georgia NATO Membership Promise,” *Reuters.com* (12 September 2008); at [www.reuters.com/article/topNews/idUSLC66333720080912?feedType=RSS&feedName=topNews](http://www.reuters.com/article/topNews/idUSLC66333720080912?feedType=RSS&feedName=topNews).

Russia's actions in the South Caucasus imply for NATO's PfP program? This article will address both the short-term and long-term implications of the August 2008 crisis in Georgia for NATO's PfP program.

### **Responses: Russia, EU, NATO, and U.S.**

Salome Samadashvili, Georgia's Ambassador to the EU, has argued, "either we find a way to respond to [Russia's military action] together, or we have to live with the decision that we will face a different world tomorrow."<sup>2</sup> The crisis generated various and mixed responses from the United States, NATO, the EU, the CIS, and Russia. Each of these responses can be understood in two different contexts: first, through thematic lenses; and second, in terms of their implications for the Partnership for Peace. The immediate reactions to the conflict—including the roles of the various actors, their responses and exchanges—generated a number of themes that are relevant for the evolution of PfP and which therefore deserve to be highlighted and analyzed. Such analysis will enable us to better understand the changing geopolitical context and security environment in which the member states of PfP and NATO find themselves.

The mixed nature of the responses to the Georgia crisis is evident both within NATO and the EU and between NATO and Russia. Germany, France, and Italy have all issued differing statements on their response to the crisis. German Chancellor Angela Merkel diplomatically observed, "It is rare that all the blame is on one side. In fact, both sides are probably to blame. That is very important to understand." Her Italian counterpart, President Silvia Berlusconi, noted that Saakashvili would do well to "behave." French President Nicolas Sarkozy, who held the EU presidency at the time of the crisis, attempted to broker a ceasefire agreement; however, that agreement was riddled with ambiguities (as we have noted) that were then exploited, despite warnings of "serious consequences."<sup>3</sup> The measured tone of these responses from Germany, France, and Italy were less strident than those from the U.K., Sweden, and the EU member states in Central and Eastern Europe that were brought into the Union in 2004. The old divisions between Atlantic Europe, Core Europe, Non-Aligned, and New Europe evident during the build-up to the invasion of Iraq in 2003 had been realigned. The key explanation cited by many analysts for the divergence in responses was based on dependence on Russian hydrocarbons rather than on policy differences, with France, Germany, and Italy all signing bilateral agreements with Gazprom to ensure the security of their national energy supplies.

As for NATO, it froze cooperation with the NATO-Russia Council (NRC) on 21 August 2008. This reaction came on the heels of NATO Secretary-General Jaap de Hoop Scheffer's initial expression of "serious concern" at the outbreak of fighting, and

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<sup>2</sup> "NATO, EU Hold Emergency Talks on Georgia," *Deutsche Presse-Agentur* (11 August 2008).

<sup>3</sup> Dominic Hughes, "Sarkozy's Georgia Gamble Pays Off," *BBC News* (13 August 2008); available at <http://news.bbc.co.uk/1/hi/world/europe/7559222.stm>.

his call to “all sides to end the armed clashes and return to the negotiating table.”<sup>4</sup> When Russia stalled and exploited the ambiguities of the ceasefire agreement, Scheffer increased the urgency and directness of his rhetoric, expressing, on behalf of an emergency NATO ambassadors’ meeting, “solidarity with Georgia.” The Secretary-General also condemned and deplored the “excessive disproportionate use of force by the Russians.” He concluded by reiterating forcefully the need for the “full respect necessary for [the] sovereignty and territorial integrity of Georgia,” including Abkhazia and South Ossetia.<sup>5</sup> The irony evident was that Russia had withdrawn from the NRC when NATO member states recognized Kosovo as an independent state in February 2008; now NATO froze relations when Russia recognized Abkhazia and South Ossetia as independent in August 2008. The NRC was deemed more useful by both NATO and Russia as a symbolic marker and vehicle for strategic signaling than for its primary and ostensible purpose: a forum for discussing issues of strategic importance between partners.

Dmitry Rogozin, Russia’s envoy to NATO, has described NATO’s reaction to the conflict as “inappropriate, dishonest, hypocritical and deeply cynical ... a narrow, bloc-based approach as if they were frozen in the Stone Age of the Cold War.” Military cooperation between Moscow and Brussels has stalled, including “the freezing of visits to Russia by NATO officials (including Scheffer’s planned October visit); suspending participation in joint military exercises, in Operation Active Endeavour, and not allowing NATO ships to dock in Russian ports; and freezing cooperation with PFP.” However, political dialogue remains open with respect to operations in Afghanistan, which requires the overland transport of non-military supplies through Russian territory. Rogozin views Afghanistan as a shared problem, and warns that “it would be madness for NATO to pursue the path of worse relations with Russia,” especially considering the International Stabilization and Assistance Force’s (ISAF) struggle to put down the Taliban-led insurgency there.<sup>6</sup>

What currently concerns Russia is the increase of naval activity in the Black Sea, particularly the presence of NATO forces in the north-eastern sector.<sup>7</sup> The Deputy Chief of the General Staff of the Russian Armed Forces, Colonel-General Anatoly Nogovitsyn, expressed bewilderment at the presence of (according to his sources) nine warships from NATO countries in the area. “NATO is continuing to build up the Navy

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<sup>4</sup> Ibid.; Radio Free Europe/Radio Liberty, “Large-Scale Fighting Erupts in South Ossetia,” *GlobalSecurity.org* (8 August 2008); available at [www.globalsecurity.org/military/library/news/2008/08/mil-080808-rferl01.htm](http://www.globalsecurity.org/military/library/news/2008/08/mil-080808-rferl01.htm).

<sup>5</sup> Jaap de Hoop Scheffer, “Press Point,” *NATO.int* (12 August 2008); available at [www.nato.int/docu/speech/2008/s080812e.html](http://www.nato.int/docu/speech/2008/s080812e.html).

<sup>6</sup> Alexander Osipovich, “Russia Freezes Cooperation with NATO, but not on Afghanistan,” *Agence France Presse* (26 August 2008).

<sup>7</sup> For more complete historical and political background involving the Black Sea region, including Ukrainian membership in NATO and Russian security and military concerns, see James Sherr, “Security in the Black Sea Region: Back to Realpolitik?” *Southeast European and Black Sea Studies* 8:2 (2008): 141–53.

group in the Black Sea. For what? They are trying to convince us that this is a planned exercise. ... It is hard to believe that their movement is going on within the framework of delivering humanitarian aid.”<sup>8</sup> Nogovitsyn continued to emphasize that the build-up of warships in the Black Sea “is increasing the degree of tension in the region.” Surprisingly, Nogovitsyn commented that Russia, despite having the ability, is “not planning to increase our Black Sea naval group.”<sup>9</sup> Instead, in response, Russia strengthened its defense of the new sovereign state of Abkhazia through the deployment of the *Moskova* missile cruiser to the port of Sukhumi. The maintenance of the political dialogue between Moscow and Brussels—even at a sharply curtailed level—can therefore be understood as a sign that Russia recognizes the military presence, and perhaps superiority, of NATO naval forces in the Black Sea, and is attempting to respond in kind by curtailing its participation in PfP activities and reminding NATO that the road to Kabul increasingly runs through Moscow.

Before the crisis, NATO and the U.S. had been actively working to increase the security and military potential of the PfP member states. On 3 September 2008, NATO reiterated its intent to help develop Georgia’s military capabilities as a part of the long-standing projects that were established within Georgia’s PfP program. The creation of the NATO-Georgia Commission (NGC) by NATO in the immediate aftermath of the Georgia crisis was viewed with alarm in Moscow. The NGC was established to “underpin Georgia’s efforts to take forward its political, economic, and defense-related reforms pertaining to its Euro-Atlantic aspirations for membership in NATO.”<sup>10</sup> From the Russian perspective, this was understood as the first step toward the formal integration of Georgia into NATO, a “red line” Russia has made explicitly clear it will not tolerate NATO crossing. It was also perceived to represent the multi-lateralization of what formally had been a U.S.-Georgia bilateral Train-and-Equip program, with expansion of the partnership to include the larger Alliance community.

However, James Appathurai, a NATO spokesman, was quick to stress that NATO “as an organization will not be supplying weapons or arms to Georgia. What NATO can do, and what NATO is doing, is assisting the Georgians in defining their own defense capabilities.”<sup>11</sup> Lt. Col. Robert Hamilton, who had run the U.S. military training program in Georgia, also stated, “At no time did the U.S. attempt to train or equip the Georgian armed forces for a conflict with Russia. ... In fact, the U.S. deliberately avoided training capabilities [that] were seen as too provocative.” This is evident in the quick collapse of Georgian troops: “their training didn’t cover conventional-warfare

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<sup>8</sup> “Russian General Staff Bewildered by NATO Excess Activity in Black Sea,” *ITAR-TASS* (26 August 2008).

<sup>9</sup> “Russia Has no Plans to Boost its Black Sea Naval Group,” *RIA Novosti* (27 August 2008).

<sup>10</sup> Georgian Ministry of Foreign Affairs, “Framework Document on the Establishment of the NATO-Georgia Commission” (Tbilisi, 15 September 2008); available at [www.mfa.gov.ge/index.php?lang\\_id=ENG&sec\\_id=550&info\\_id=7990](http://www.mfa.gov.ge/index.php?lang_id=ENG&sec_id=550&info_id=7990).

<sup>11</sup> “NATO to Go Ahead with Plans to Help Georgian Military,” *Deutsche Presse-Agentur* (3 September 2008); James Appathurai, NATO Press Briefing, 3 September 2008; [www.nato.int/docu/speech/2008/s080903b.html](http://www.nato.int/docu/speech/2008/s080903b.html).

topics like tanks, artillery and helicopters.”<sup>12</sup> Since 2002, this program had focused on clearing Chechen rebels with suspected ties to Al Qaeda from the Pankisi Gorge, counterinsurgency training, and peacekeeping duties.

The NGC has taken steps to create a Membership Action Plan (MAP) that will prepare Georgia for membership in the Alliance.<sup>13</sup> While not providing the same level of protection as is granted to NATO member states, under the MAP members may feel obliged to intervene on behalf of an aspirant state, thus establishing at least a temporal security. Georgia, Ukraine, and Azerbaijan are also eager to hasten their own entry into NATO, but Turkey has been calling for a slow integration, and is pushing Brussels not to rush the process. Poland, Lithuania, Estonia, and Latvia have all vocally advocated for the inclusion of Georgia and Ukraine within NATO.<sup>14</sup> These two nations’ MAPs have largely fallen by the wayside, but renewed political pressure from Washington may create the impetus for different avenues to membership. Defense Secretary Robert Gates has probed the issue of finding alternate paths of membership for Georgia, citing non-MAP paths to membership. At a NATO Foreign Ministers meeting in early December 2008, a compromise was reached, with Georgia and Ukraine essentially being offered compensatory alternatives to the MAP, and NATO stating: “We call upon Russia to refrain from confrontational statements, including assertions of a sphere of influence, and from threats to the security of Allies and Partners.”<sup>15</sup>

Tensions within NATO and the lack of a definitive and unified policy response have not, however, curtailed ongoing field exercises in the region within the PfP framework. The PfP exercise “Cooperative Longbow/Lancer-2008” was launched in Armenia on 29 September 2008, and included multinational brigades in field exercises, with over 900 servicemen from seventeen countries participating (although Russia, Georgia, Azerbaijan, and Turkey did not take part). Major-General Arshaluys Patina, Deputy Chief of the Headquarters of Armenian Armed Forces, notes that the exercise “won’t affect the geopolitical situation in the region, as it had been planned long ago, [and] meets the frames of the UN mandate.” Patina also expressed hopes “that the exercise will contribute to exchange of experience, development of cooperation and consolidation of peace in the region.”<sup>16</sup>

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<sup>12</sup> John Barry, “Russia’s Nervous Neighbors,” *Newsweek* (15 September 2008): 8.

<sup>13</sup> “Baltic Countries Considering Clearing Georgia of Conflict Left-Over Explosives,” *Baltic News Service* (16 September 2008).

<sup>14</sup> For a broader approach towards NATO’s future and role in Europe, in particular the debate after the fall of the Soviet Union, see Vaclav Havel, “Five Points on the Issue of NATO,” *New Presence: The Prague Journal of Central European Affairs* 11:3 (Summer 2008): 24–27.

<sup>15</sup> Final Communiqué, “Meeting of The North Atlantic Council at the Level of Foreign Ministers Held at NATO Headquarters, Brussels, 2–3 December 2008” (3 December 2008), PR/CP(2008)153; available at [www.nato.int/docu/pr/2008/p08-153e.html](http://www.nato.int/docu/pr/2008/p08-153e.html).

<sup>16</sup> “NATO Exercise ‘Cooperative Longbow/Lancer-2008’ launched in Armenia,” *Yerevan* (29 September 2008).



Armenian Defense Minister Seiran Oganyan identified peace and stability as imperatives for the Caucasus state. As a member of the CIS Collective Security Treaty Organization, Armenia does not intend to pursue NATO membership. "Entry into NATO is not on the agenda of the republic's foreign policy" has been a policy line heard from both former President Robert Kocharyan and current leader Serzh Sargsyan. According to Oganyan, "We pursue only one goal: enhance as much as possible our common peacekeeping capabilities, improve their implementation mechanisms and upgrade the combat skills of our units.... This goal confirms Armenia's determination to perform its obligations as a full member of the international community in ensuring global security."<sup>17</sup> Armenia is intent on maintaining an independent foreign policy but welcomes cooperation with NATO.

Another state that is not pursuing NATO membership is Finland, which shares a long border with Russia. In a survey taken immediately after the Georgia conflict, 57 percent of the Finnish public opposed joining NATO, while 23 percent were in favor, and 20 percent were undecided. The same poll conducted a year earlier revealed that 16 percent of Finns were undecided about NATO membership. Perhaps most telling is the 70 percent who wanted a referendum should Finland seek membership in the military alliance.<sup>18</sup> Finland, a member of the European Union, does not want to entangle itself in a military alliance in any way that could be seen as a provocation toward Russia. From Moscow's perspective, it appears that Russia's incursion into Georgia has not created an impetus for non-aligned states to rush westward.

It is clear that Russia considers all military build-up in its near neighborhood as a potential counter to Russian actions. On 20 September 2008, Russian President Medvedev ordered an increase in defense spending (particularly procurement) and the beginning of the process of military reform. He also announced a new project to "build new space and missile defense shields and put [Russia's] armed forces on permanent combat alert."<sup>19</sup> These responses are part of a pivotal shift that occurred in Russia on 8/8/08. "Russia's 9/11" has accelerated the creation of a new power structure. The Russian president wants to usher in a new world order, one that is not dominated by the United States. In an interview after the Georgia crisis, Medvedev outlined his foreign policy in five points: Russia "(1) recognizes the primacy of the fundamental principles of international law; (2) The world should be multi-polar. ... We cannot accept a world order in which one country makes all the decisions, even as serious and influential a country as the United States of America; (3) Russia does not want confrontation with any other country [and] has no intention of isolating itself; (4) Russia will protect the lives and dignity of our citizens. ... [This] is an unquestionable priority. ... [It] should be clear to all that we will respond to any aggressive acts committed against us;

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<sup>17</sup> "Armenia Says NATO Exercise Key Factor of Stability in Region," *ITAR-TASS* (29 September 2008).

<sup>18</sup> "Finnish Voters Still Oppose NATO Membership," *Deutsche Presse-Agentur* (18 September 2008).

<sup>19</sup> Otny Halpin, "Moscow Begins New Arms Race with Military Build-up," *The Times* (London) (27 September 2008).

(5) There are regions in which Russia has privileged interests ... with which we share special historical relations and are bound together as friends and good neighbors."<sup>20</sup> However, Medvedev contends that he did "not believe the Caucasus crisis had caused a fault line in relations between Russia and the West, which would lead to another period of confrontation."<sup>21</sup>

Thus, PfP states in the South Caucasus, as well as Ukraine and Moldova, are caught between two competing power structures and potential military-security alliances—NATO and the Russian Federation—and thus between two strategic orientations. In the aftermath of the Georgian crisis, Russia now seems able to set the rules of the game in the South Caucasus in particular, as well as in post-Soviet Central Asia more generally, having demonstrated that it has the military capability and political will to enforce these rules with instruments of both soft and hard power. Russian Defense Minister Anatoliy Serdyukov underscored such an interpretation when he expressed concern "about the build-up of Georgia's military potential being carried out ... and by the pushing of that country into NATO. These activities can provoke another conflict, a far more serious one than the events that took place this August."<sup>22</sup> At the same time, if the EU can be said to have ever had a strategy regarding the South Caucasus, it is certainly now in tatters. NATO has demonstrated a split response, and the U.S. is understandably focused on a sudden financial crisis and a political transition that typically takes between six and nine months to complete. Given such an inauspicious geo-strategic context, what, then, do these events mean for the future of the PfP program?

### **Conclusions: Implications for the Partnership for Peace?**

In one reading of the Georgia Crisis, it can be argued that Russia has every right to be skeptical of NATO's intentions. As this interpretation has it, "NATO plays an important role in ensuring European security. But by doing this NATO also is exporting instability outside, in particular, to Russia."<sup>23</sup> John Chapman at the London-based International Institute for Strategic Studies has cautioned NATO against rapid or immediate expansion for similar reasons: "A policy of NATO enlargement now ... would be a strategic error. Normally when military alliances enlarge it is to gain strength

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<sup>20</sup> "Russia Won't Accept Unipolar World – Medvedev," Interview given by Dmitri Medvedev to Russian television (31 August 2008); available at [www.globalsecurity.org/wmd/library/news/russia/2008/russia-080831-medvedev01.htm](http://www.globalsecurity.org/wmd/library/news/russia/2008/russia-080831-medvedev01.htm).

<sup>21</sup> Excerpts from transcript of meeting of President of the Russian Federation D. A. Medvedev with participants in the International Club Valdai, 17 September 2008; available at [www.geneva.mid.ru/press/e\\_2008\\_29.html](http://www.geneva.mid.ru/press/e_2008_29.html). For expanded views on the future of U.S.-Russian relations and Russia's new perception of its international role, see Aleksandr Dugin, "Pax Russica: For a Eurasian Alliance Against America," *NPQ: New Perspectives Quarterly* 25:4 (Fall 2008): 56–60.

<sup>22</sup> "Georgia's Accession to NATO Could Cause Serious Conflict," *Zvezda TV* (18 November 2008).

<sup>23</sup> "Russian Apprehensions Regarding NATO Justified," *ITAR-TASS* (13 October 2008).

themselves; it is not to assume new strategic liabilities.”<sup>24</sup> Turning the “expansion policy into a game of Russian roulette” is not something Russia is prepared to tolerate, nor is it an option that should NATO even consider. If Ukraine, Georgia, and Finland are not to become NATO members, will PfP and NATO member states reexamine the utility of the PfP program itself?<sup>25</sup>

Events external to the South Caucasus will have significant bearing on this question – perhaps just as much as the Georgia Crisis and its immediate aftermath. 2009 represents a pivotal moment for the future direction and evolution of NATO. In 2007, NATO rejected a Global Partnership Initiative (GPI) that would have given institutional form to efforts to develop more robust advanced expeditionary warfare capabilities, stabilization and reconstruction capabilities in complex crisis management environments, and programs to rebuild indigenous militaries and security forces as part of an exit strategy in areas of intervention.<sup>26</sup> Through 2008, the chances that NATO will face a strategic defeat for ISAF in Afghanistan increasingly seem to be more rather than less likely. Afghan presidential elections in September 2009 will be critical to NATO’s efforts to shape an exit strategy, and to the ultimate perception of ISAF’s success or failure. Failure would decrease NATO’s credibility and legitimacy, and diminish the utility of PfP within the region, while boosting other regional organizations as compensatory alternatives. It might also encourage states in the region to shift their strategic orientation towards Moscow, with Beijing and the Shanghai Cooperation Organization as a counterweight. For the South Caucasus—and particularly in Azerbaijan—the pressure to adopt Russian-led, Caspian-oriented energy frameworks would increase, and with it Russia’s role in training the militaries, shaping the national security strategies, and reformulating the military doctrines in these regional states.

An alternative and more positive response to failure in Afghanistan may be for NATO to place a renewed emphasis on PfP, essentially turning it into “GPI-lite.” This would include expanding PfP to include global members eager to refashion their security sector governance (thus pursuing defense reform and interoperability as ends in themselves rather than as stepping-stones to NATO membership), enhance their relationship with NATO’s intelligence network, and gain easier access to expeditionary

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<sup>24</sup> Robin Millard, “Russia Row Shows NATO Needs Reality Check,” *Agence France Presse* (18 September 2008).

<sup>25</sup> See Emanuel Adler, “The Spread of Security Communities: Communities of Practice, Self-Restraint, and NATO’s Post Cold War Transformation,” *European Journal of International Relations* 14:2 (2008): 195–230; and Zdenek Kriz, “NATO Transformation and the Summit in Bucharest: Towards the Organisation of Collective Defence, Collective Security or Cooperative Security,” *Defence and Strategy* (Prague) 1 (2008): 17–29. These articles offer a debate presenting a theoretical and empirical approach, respectively, to the concepts behind NATO expansion within Europe and through partnerships. The debate centers on the strategies of cooperative security, collective defense, or collective security as centerpieces of NATO’s ambitions.

<sup>26</sup> For a discussion of this initiative, see Graeme P. Herd and Daniel Kight, “Future Visions of NATO Partnerships and Cooperation Programs,” *Connections: The Quarterly Journal* 6:3 (Fall 2007): 1–9.

partnerships if NATO chooses to engage in future conflicts in Asia, Africa, the Pacific, etc.

Thus, Georgia's PfP activities are critical to the evolution of the program. If Russia has not just a voice but also a veto over Georgia's NATO membership prospects, presumably it can shape and delimit the range and extent to which Georgia engages in PfP activities. If this is the case, then Georgia will become a litmus test for the utility of PfP in the South Caucasus, and thus for the strategic orientation of the states in that region. This could prove to be a tipping point for the strategic orientation of Azerbaijan, moving it from an approach that is balanced between orientations toward Moscow and Euro-Atlantic institutions firmly into the Kremlin-controlled security space. As goes Azerbaijan, so go Turkmenistan and Kazakhstan (as their Caspian energy framework is dependent on Baku's choices), and thus the strategic heart of Central Asia. In the context of potential strategic failure for NATO in Afghanistan, this state of affairs is sobering indeed.

# The European Defense Sector and EU Integration

Jorge Silva Paulo \*

Common sense says the European integration process will not extend fully into the defense sector. This is because defense is a key pillar of state sovereignty, and the European Union (EU) has not done away with states. It is also assumed because integration within Europe is generally seen as an economic process, and defense is not something that is usually associated with the EU. In fact, as this paper shows, there is a significant level of intergovernmental cooperation already underway, and an integration process exists in the defense sector in Europe. Even at the political level, there are already meetings of EU defense ministers. So, in spite of a late start and the fact that the process may be irregular and slow, there is a path of defense integration that is already being traveled by the EU member states, a path that has been visible since 1999.

The European integration process had security in mind at its inception—with its stated goal to end wars in Europe—by putting steel and coal (which were essential elements of arms fabrication at the time) under a supranational authority. Regulating these commodities was expected to defuse the prospect of another war between Germany and France. Security was again explicitly addressed when the member states of the European Coal and Steel Community (ECSC) signed a treaty in 1952 establishing the European Defense Community (EDC).

The EU pillar structure complicates the process of defense sector integration: the intergovernmental pillar is in place to deal with *high politics*<sup>1</sup> (Common Foreign and Security Policy, CFSP); and the Community pillar exists to deal with economics, or *low politics*, where, in some relevant ways, the wishes of individual governments may be overridden. The intergovernmental method has the virtue of searching for consensus, so decisions tend to be more robust, while the community and integration method allows for faster decision-making processes.

However, the European integration process is far from creating a federation or a super-state, and this is even more the case in the defense sector. There is a “Euro-Gaullist” thesis in favor of integration and a strong Europe, in order to balance the remaining superpower (the United States). On the other hand, there is a Euro-Atlantic thesis aimed at creating a Europe that is credible in world affairs and capable of work-

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\* Jorge Silva Paulo is a captain in the Portuguese Navy and is currently Head of the Marine Pollution Response Service, National Maritime Authority-Portugal. He is indebted to the George C. Marshall Center for supporting his basic research during the Program of Advanced Security Studies (PASS), to General Jean-Paul Raffenne for his challenging discussions and always fruitful orientations, and to the Portuguese Navy, and VADM Luís Medeiros Alves in particular, for the opportunity to take part in the PASS course. All omissions and mistakes are the fault of the author.

<sup>1</sup> ‘High politics’ is an expression that was much favored by General Charles de Gaulle, for whom the term meant foreign affairs and security policy; on the other hand, ‘low politics’ meant mostly economic policy.

ing alongside the U.S.<sup>2</sup> Both views would agree that Europe is still “an economic giant, a political dwarf and a military worm.”<sup>3</sup> This paper suggests that the reason for this is that governments are accountable to their national voters, and only occasionally benefit by advancing integration or pooling sovereignty. Thus, speeches by national politicians about a strong Europe should be read as wishes, whose price is measured in critical media attention, unemployment, and short-term electoral results – which many feel is often too high a price to pay.

But the fragmentation of defense markets according to national borders has costs, referred to as the “costs of non-Europe,” which were identified from the beginning of the integration process and the first days of NATO. But these costs were only given estimated values after the 1985 decision to create the Single European Market (SEM). Due to globalization, and spillover from other sectors and policies (both foreign and domestic), defense sectors can no longer be considered to be truly national. The “costs of non-Europe” influence unemployment, growth, and sovereignty, so politicians have to conduct a balancing act to mitigate their impact. The sluggish growth currently affecting many European states and the growing cost of modern weapons does not leave many options apart from moving toward integration in the defense sector, in the process accepting a clear loss of sovereignty (but hopefully compensating for the loss through pooled sovereignty). This situation presents a larger challenge for small states, because they have less industry, apart from some niche areas, and typically do not have domestic markets that are large enough to enable them to go it alone on sophisticated projects. Thus, small states either abandon their defense sectors, or they accept integration and aim at exploring economies of scale and learning through some sort of division of labor. For countries with long-standing rivalries and differences in culture, this integration in a *high politics* sector, such as defense, is by definition more challenging than integration in *low politics* sectors, such as the economy.

This paper will briefly review the history of the European integration process, with a focus on the political, economic, and legal aspects relevant to security. The following section will examine the specific aspects of the defense sector to explain why governments prefer cooperation to integration and, in cases when the latter option is chosen, states choose a slow and cautious process. The next section looks normatively to the future, offering speculation about three possible scenarios and their viability within the defense sector in five years time, considering the costs and benefits of integration for the EU. It then concludes that the EU lacks power to influence world affairs, due to a lack of capabilities and an absence of the will to obtain and make use of them. Integration would help to develop the needed capabilities, but political will is essential for the integration process itself to occur, and without a sudden change in the situation, Europeans seem to lack the will to integrate.

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<sup>2</sup> I use the designations offered by Timothy Garton Ash, in *Free World* (New York: Random House, 2004).

<sup>3</sup> The phrase “economic giant and political dwarf” was used about Germany and Japan after the Second World War.

## The Integration Process and the European Defense Sector

The history of Europe since 1945 shows a path of increasing integration; it may be slow, irregular, complex, and probably irreversible, but it is remarkable what has been achieved so far. Not the least of these achievements is peace in Europe, where integration, the rule of law, and democracy are intertwined. This section describes this evolution in institutional terms, examining both the economic side of the defense sector and the institutional side, paying particular attention to one of the most talked-about and wished-for bodies of defense integration: a European armaments or defense agency.

### *European Defense: Politics and Institutions*

Although it has roots in a distant past, the current process of integration in Europe started after World War II and the Marshall Plan, whose implementation specifically demanded that the recipient European countries would coordinate themselves in order to get aid. It began with the creation of the European Coal and Steel Community in 1951,<sup>4</sup> a new type of international organization possessing (limited) supranational powers, an integration method, and federalist ambitions, whose member states were Belgium, France, Germany, Italy, Luxembourg, and the Netherlands. Although Winston Churchill proposed European integration and was an admirer of France, he never saw the U.K. as part of the integration process, adopting the view that “we are with them, but not of them.” The U.K. and Churchill made clear their rejection of any form of European supranationality at the Congress of Europe in 1948,<sup>5</sup> to the frustration of federalists like Jean Monnet and Robert Schuman.<sup>6</sup> The Schuman Declaration,<sup>7</sup> which was the root from which the ECSC grew, took stock of the failure of the federalist approach, through *high politics*, at the Congress of Europe and tried a subtler approach to federalism through *low politics* (that is, economics), using the so-called community method of spillover, or *engrenage*. The widespread adherence to the Schuman Declaration, the French concern about the resurgence of Germany, and the Korean War<sup>8</sup> led the federalists to believe that some steps of the integration process could be skipped,<sup>9</sup>

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<sup>4</sup> The ECSC was created by the Treaty of Paris (18 April 1951) and came into being on 1 July 1952; See Hans Schmitt, *The Path to European Union: From the Marshall Plan to the Common Market* (Baton Rouge: Louisiana State University Press, 1962), chapters 6–10.

<sup>5</sup> Derek Urwin, *The Community of Europe: A History of European Integration Since 1945* (London: Longman Group, 1991), 28–35.

<sup>6</sup> The federalists believed in the Kantian Peace – that is, that a federation of democratic states would be the best system to create and maintain peace in Europe.

<sup>7</sup> Robert Schuman was the French minister of foreign affairs, and offered this declaration in the name of his government on 9 May 1950; in fact, it was conceived by Jean Monnet, the so-called architect of European integration. Full text of the Schuman Declaration is available at [http://europa.eu/abc/symbols/9-may/decl\\_en.htm](http://europa.eu/abc/symbols/9-may/decl_en.htm).

<sup>8</sup> Despite the fact that this war took place on the other side of the globe, many Europeans believed the USSR was using it as a rehearsal for its expansion in Europe.

<sup>9</sup> Schmitt, *The Path to European Union*, 205–8.

and so the Pleven Declaration<sup>10</sup> put forward the proposal for the creation of the European Defense Community.<sup>11</sup> This was a major milestone in European defense,<sup>12</sup> and it is crucial to note that France was its creator; it is perhaps even more important to keep in mind that France also killed it by not ratifying the EDC Treaty.<sup>13</sup>

Although the U.K. is usually seen as the main opponent of supranational structures within Europe, the EDC is only the first of many examples of the ambivalence of France and of its political elites about any process of federal integration;<sup>14</sup> such ambivalence and changes of course in one of the biggest states in Europe and one of its integration engines means that this process, not least in security and defense, is mostly dictated by politics and public sentiment in France.<sup>15</sup>

The collapse of the EDC forced the federalists to review their options and try to improve what worked: the community method, which operated through *low politics*. *La*

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<sup>10</sup> The Pleven Declaration, of 24 October 1950, is named after René Pleven, the French defense minister. It was a cooperative project with Jean Monnet; see Urwin, *The Community of Europe*, 60–68.

<sup>11</sup> Of course, a main concern at the time was that of the future of Germany, which was not yet a sovereign state and lacked an army. A Community Army would have solved the problem of a sovereign (and potentially resurgent) Germany by having its military under supranational command. See Lord Hastings Ismay, *NATO's First Five Years* (Paris: NATO, 1955), ch. 4; Schmitt, *The Path to European Union*, 207; and Charles Zorgbibe, *Histoire de la Construction Européenne* (Paris: Presses Universitaires de France, 1997), 27–32.

<sup>12</sup> In short, meaning the process of political integration and cooperation in the defense sector.

<sup>13</sup> This Treaty of Paris was signed on 27 May 1952. When four states had already ratified it (only France and Italy were missing), the ratification process collapsed in the French National Assembly on 30 August 1954. It is important to note that one of the main concerns in 1950 that led to the Pleven Declaration, the Korean War, had stopped in July 1953.

<sup>14</sup> See Margaret Blunden, “France,” in *The Foreign Policies of European Union Member States*, ed. Ian Manners and Richard G. Whitman (Manchester: Manchester University Press, 2000), 24. For the diversity of opinion among the French elite, the examples of Aristides Briand, Charles de Gaulle, Jean Monnet, or Jacques Delors illustrate the point. Other examples of French resistance include the Fouchet Plan (1961–62), the *Chaise Vide* Crisis (1965–66); abandoning the military structure of NATO (7 March 1966); the two vetoes of the United Kingdom’s membership in Communities (after applying 1961 and again in 1967); or the negative vote in the referendum on the Constitutional Treaty (2004). Not all of these were due to President de Gaulle. His motivations for vetoing the U.K. applications were twofold: one was based in *high politics*, because he disliked the liberal British view of the world (see Zorgbibe, *Histoire de la Construction Européenne*, 69–71); the other was based in *low politics*, because he probably believed the U.K. would oppose the CAP, his favorite EEC policy. However, this *low politics* view is disputed. See Andrew Moravcsik, *De Gaulle and Europe: Historical Revision and Social Science Theory*, Harvard University, Center for European Studies, Working Paper Series 8.5 (May 1998); and, for a contrary view, Robert Lieshout, Mathieu Segers, and Anna Vleuten, “De Gaulle, Moravcsik, and The Choice for Europe: Soft Sources, Weak Evidence,” *Journal of Cold War Studies* 6:4 (Fall 2004): 89–139.

<sup>15</sup> “If you want to see a country punching far above its weight class these days, look at France.” Robert Kagan, “France’s Dream World,” *The Washington Post* (3 November 2002): B07.



*reliance Européenne* came at the Messina Conference in 1957, which produced the two Treaties of Rome that created the European Economic Community (EEC) and the European Atomic Energy Community (EURATOM).<sup>16</sup> The EEC, because of its wider scope, supported and fed the integration process; however, defense was excluded from the Common Market from the start, based on Article 223 of the EEC Treaty.<sup>17</sup> This exclusion was decades later given a limited interpretation by the Court of Justice of the European Communities (ECJ), but until then it was used by the member-states liberally, in fact excluding all goods and services even remotely related to defense from the trade and competition rules – that is, excluding them from the jurisdiction of the European Commission and the community method.

At the intergovernmental level there were also some relevant initiatives. First, the Treaty of Washington (1949) created the North-Atlantic Pact<sup>18</sup> – a defensive alliance of Western states against the perceived threat of Soviet expansion.<sup>19</sup> The need to improve coordination and command of military forces led to the Ottawa Convention of 1951, which gave rise to the creation of a permanent structure, the North-Atlantic Treaty Organization (NATO), with a Military Agency for Standardization, to improve standardization and interoperability between allies. Less well known (but still relevant, because of its economic and trade impact) was the Coordinating Committee for Multilateral Export Controls (COCOM), which existed outside of NATO but close to it, whose mission was to avoid exporting weapons and dual-use goods to the USSR and its allies to prevent them improving their military capability at the West's expense.<sup>20</sup>

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<sup>16</sup> The conference lasted from 1 June 1955 to 23 April 1956. The two Treaties of Rome were signed on 25 March 1957, and entered into force on 1 January 1958.

<sup>17</sup> Article 223 of the Treaty of Rome (which established the EEC) reads:

The provisions of this Treaty shall not preclude the application of the following rules:

(a) No Member State shall be obliged to supply information the disclosure of which it considers contrary to the essential interests of its security;

(b) Any Member State may take such measures as it considers necessary for the protection of the essential interests of its security which are connected with the production of or trade in arms, munitions and war material; such measures shall not, however, adversely affect the conditions of competition in the common market regarding products which are not intended for specifically military purposes.

This prohibition was applied to the full range of military equipment and materiel, including nuclear, biological, and chemical weapons.

<sup>18</sup> The twelve original signatories were: Belgium, Canada, Denmark, France, Iceland, Italy, Luxembourg, Netherlands, Norway, Portugal, the U.K., and the U.S. Greece and Turkey joined in 1952, and Germany in 1955; Ismay, *NATO's First Five Years*, ch.1.

<sup>19</sup> Or, as its first Secretary-General, Lord Ismay, said, NATO was intended “to keep the Russians out, the Americans in, and the Germans down.” As quoted in George Robertson, “NATO Needs New Forces for New Challenges,” *The Independent* (U.K.) (25 July 2000); available at [www.independent.co.uk/opinion/commentators/nato-needs-new-forces-for-new-challenges-709659.html](http://www.independent.co.uk/opinion/commentators/nato-needs-new-forces-for-new-challenges-709659.html).

<sup>20</sup> Michael Lipson, “The Reincarnation of COCOM: Explaining Post-Cold War Export Controls,” *The Non-Proliferation Review* (Winter 1999): 33–51.

After the Western Union was formed in 1948<sup>21</sup>—which was still very much an alliance against Germany—another important development was the process that led to the creation of the Western European Union. The WEU included Germany and Italy and, although it placed some limitations on their sovereignty, it helped restore them to something resembling normalcy in international relations. Through the ECSC, they were already part of the economic integration process in Europe; they then entered the defense alliances, WEU and NATO, in 1955. This made sense, because the perceived threat at the time was the USSR. It should be noted that the WEU, like NATO, also had some sort of integration in mind when it created its Standing Armaments Committee, but it produced very few results, and only at the operational level, much like the WEU itself (which was almost dormant until 1984). It was mainly in the context of NATO, under the leadership of the United States, that security cooperation and integration evolved during the Cold War.

The lessons that France and the U.K. drew from the Suez Crisis in 1956, along with the return of Charles de Gaulle to power in France in 1958, molded their foreign and security policies for decades. While the U.K. concluded that it could not go against the wishes of the U.S., de Gaulle and his followers concluded that France should aim at self-sufficiency and independence—sometimes even balancing between both sides in the Cold War conflict—which was consistent with the value de Gaulle placed on sovereignty and on *la grandeur de la France*. Tensions between France and the U.S., but also between France the EEC, due to its supranational nature and path, were high until de Gaulle resigned in 1969.<sup>22</sup> These tensions were made manifest in France's creation of its own nuclear deterrent force in 1959; the Fouchet Plan of 1961–62, designed to create an intergovernmental regime able to overrule the supranational actions of the EEC;<sup>23</sup> the *Chaise Vide* Crisis;<sup>24</sup> and the decision to abandon the military structure of NATO (but stay in the Atlantic Alliance).<sup>25</sup>

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<sup>21</sup> The Western Union had five signatories: Belgium, France, Luxembourg, Netherlands, and the U.K. Actually, the Western Union extended the provisions of the Treaty of Dunkirk (1947), established between France and the U.K., to the BENELUX countries.

<sup>22</sup> As some authors suggest, both had strong interests that came into conflict: “Aucun pays au monde, en dehors de la France et des États-Unis, ne proclame qu’il a un message à apporter au reste de la planète.” Axel Poniatowski, *Pourquoi les Français et les Américains ne se Comprennent Plus* (Paris: Perrin, 2004), 132. Or: “for two centuries France, as a messianic nation which wants to be the teacher of the human race, exists in a competitive relationship with the United States, and tries, like the United States, to establish a model of civilization valid for the entire planet.” Blunden, “France,” 22.

<sup>23</sup> The Fouchet Plan collapsed due to a lack of support of the other member-states of the Communities. In the realist tradition, de Gaulle then attempted a back door proposal with Germany that it alone should assume the direction of the Communities through the Elysée Treaty (1963), but German insistence on maintaining special transatlantic ties frustrated him and led him to ignore the treaty afterwards.

Despite these troubles, the customs union between the six member states of the EEC became a reality eighteen months earlier than agreed, and the Common Agricultural Policy (CAP), which is France's favorite community policy, was already generating the surpluses that made so often the news.

Just after de Gaulle resigned, the Hague Summit in 1969 decided to admit the U.K. to the Communities and pressed ahead with the integration process.<sup>26</sup> After the Davignon Report in 1970,<sup>27</sup> the European Political Cooperation (EPC) format was adopted as an intergovernmental forum for the six member states to interact, outside of the Communities, in *high politics* (foreign and security policy), where a need for coordination between European states in world affairs was felt.<sup>28</sup> The Arab-Israeli conflict or the strategy for confronting the Soviet threat were often dealt with differently by different European states, which created problems with each other that could have been avoided by consultations and consensus before policies and positions were adopted in each capital. The results were mixed at first: the 1973 Arab oil embargo still revealed wide differences within Europe, but at the signature of the Final Act of the Conference on Security and Cooperation in Europe, in Helsinki in 1975, Europe offered a show of unity.<sup>29</sup> But this was a vague document, and thus was easy to agree with.

During the 1970s, the EC—now increased to nine member states—was suffering a relative economic decline in relation to Japan and the U.S. (“Eurosclerosis”<sup>30</sup>), with budgetary problems, CAP surpluses, and the Common Market a mirage.<sup>31</sup> Europe was

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<sup>24</sup> For six months France abandoned the work of the Council of Ministers of the Communities to protest decisions about the CAP with which it disagreed. This conflict was dealt with in the Compromise of Luxembourg of 29 January 1966. See Zorgbibe, *Histoire de la Construction Européenne*, 61–62; Trevor Hartley, *The Foundations of European Community Law*, 4<sup>th</sup> edition (Oxford: Oxford University Press, 1998), 20; Michael Burgess, *Federalism and European Union: The Building of Europe, 1950–2000* (London: Routledge, 2000), 83–85. As Burgess writes of the compromise, “its appellation was a misnomer since there was only an agreement to disagree...” (84).

<sup>25</sup> France abandoned the military commands and defense planning structures, and demanded that the NATO headquarters leave Paris; so they were moved to Brussels, where they remain.

<sup>26</sup> The single currency and the Communities Own Resources are the other most important decisions of the Hague Summit. See Burgess, *Federalism and European Union*, 86–89; Dick Leonard, *Guide to the European Union*, 4<sup>th</sup> edition (London: The Economist, 1994), 11–12; Urwin, *The Community of Europe*, 146–57; and Zorgbibe, *Histoire de la Construction Européenne*, 91–97.

<sup>27</sup> Named after the Belgian Étienne Davignon who retained the main ideas of the failed Fouchet Plan.

<sup>28</sup> Zorgbibe, *Histoire de la Construction Européenne*, 165–66.

<sup>29</sup> “[S]etting a tone and standard for the future, the Helsinki Final Act ... was signed by Aldo Moro ‘for Italy, and in the name of the European Community.’” Urwin, *The Community of Europe*, 149.

<sup>30</sup> Robert Jones, *The Politics and Economics of the European Union* (Cheltenham, U.K.: Edward Elgar Publishing Ltd., 1996), 22–23.

<sup>31</sup> And the ECJ confirmed it in the *Cassis de Dijon Sentence* of 20 February 1979, on case C-120/78.

an economic power, but it was politically fragmented in its approach to world affairs. To solve this crisis, European leaders agreed in 1985 to a revision of the Treaty of Rome, the Single European Act (SEA),<sup>32</sup> which defined an ambitious program to reduce internal barriers to trade in order to create a truly single market by 1992 and to institutionalize the EPC. The EPC would further integration and offer economic gains from increased competition and from the scale of a larger market. To have effective and faster implementation of the directives that would remove the old barriers and introduce new EEC-wide rules, it was also agreed to decide more matters by qualified-majority voting (QMV), thus increasing substantially the supranational power of the EEC.<sup>33</sup>

Because of this, the SEA was a major step in the integration process, and thus it was inevitable that it brought pressure to end the Article 223 provisions exempting the defense sector due to the distortion it imposed on markets. Concerns about autonomy on the traditional pillar of sovereignty and negative economic implications for domestic industries were more important to member states than the potential savings, whose estimates were controversial even then, so Article 223 remained in place.

The collapse of communism and the move toward German reunification forced a new revision of the treaties, but on a more ambitious scale. The Maastricht Treaty of 1992, also known as the Treaty of the European Union (TEU),<sup>34</sup> aimed at advancing political union by creating a single framework to deal with *high politics* and *low politics* – namely, the EU, with a three-pillar structure (figure 1): the first pillar, the Communities, is supranational, while the other two are intergovernmental (the second for the CFSP, and the third for justice and home affairs). This model ensured that national governments still retained control over all levers of power on defense, except they could not finance operations from the EEC budget (Article J.11; now Article 28 of the TEU). Among many important changes brought about by the TEU, matters of security and defense were addressed for the first time institutionally by the European states outside of the framework of military alliances, like NATO, and with ambitious integration goals, as stated in Article J.4: “The common foreign and security policy shall include

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<sup>32</sup> Signed in Luxembourg on 28 February 1986, and entered into force on 1 July 1987, when the Communities already had twelve member states, including Portugal and Spain (since January 1987). See Urwin, *The Community of Europe*, 229–46; and Burgess, *Federalism and European Union*, ch. 5.

<sup>33</sup> Many people consider the SEA the single biggest increase in supranationality—and therefore, integration—that the EEC has experienced to date. For some, such as Margaret Thatcher, the then Prime Minister of Britain, it was a big mistake: “I believe that in negotiating the Single European Act we in Britain made two understandable but undeniable mistakes. The first was to assume that the increased powers given to the Commission would cease to be used to any great extent once the Single Market program had been completed. ... The second error ... was then and later to take at face value the assurances we were given.” Margaret Thatcher, *Statecraft: Strategies for a Changing World* (New York: HarperCollins Publishers, 2002), 374–75.

<sup>34</sup> It was signed on 7 February 1992, and entered into force on 1 November 1993.

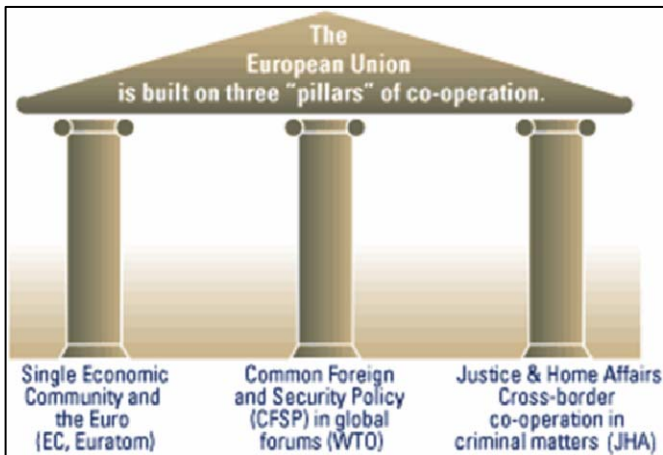


Figure 1: The EU Pillar Structure Introduced by the Maastricht Treaty.

all questions related to the security of the Union, including the eventual framing of a common defense policy, which might in time lead to a common defense.”

The exclusion in Article 223 of the Rome Treaty was kept in place; its contents were superficially changed, and it became Article 296. Again, concerns about autonomy on the traditional pillar of sovereignty were more important to the member states than the costs of fragmentation, particularly for the U.K., which has one of the strongest defense industries and armed forces in Europe. By mutual agreement, the EU would use WEU assets to implement decisions on defense (per Article J.4(2)), but the EU would assume the defense-related functions of the WEU after 2001.

In 1987, France and Germany agreed to create a common brigade to execute NATO or WEU missions. But it was only at a German-French summit meeting in La Rochelle in 1992 that the decision was made to create the Eurocorps (Spain and Belgium joined later).<sup>35</sup> The unit has been operational since 1995. In a similar way, in 1995 France, Italy, Portugal, and Spain created two forces by international treaty—the Eurofor (land) and Euromarfor (maritime)—which are also tasked with carrying out NATO or WEU missions. The command of these forces rotates among military officers of the participating member states. Although all member states accept the principle of peaceful resolution of conflicts, it is nonetheless remarkable that these nations have been willing to accept the fact that their military forces would serve under foreign command (although that had always been the case in NATO, and was the main factor that led France to abandon its integrated military structure in 1966). The slow pace of

<sup>35</sup> The full text of the La Rochelle Declaration is available at [http://www.ena.lu/statement\\_establishment\\_franco-german\\_european\\_army\\_corps\\_rochelle\\_22\\_1992-020004307.html](http://www.ena.lu/statement_establishment_franco-german_european_army_corps_rochelle_22_1992-020004307.html).

development in the area of defense cooperation thus defies understanding, and can apparently only be attributed to reasons of *low politics*.

More meaningful European cooperation in defense started at Maastricht, and continued during the 1990s, mostly under the rubric of the WEU (part of the intergovernmental pillar). It was the WEU that defined the so-called Petersberg Tasks.<sup>36</sup> The crises in the former Yugoslavia during the 1990s (and the failure of the Europeans to solve them without U.S. intervention) cooled off the level of European optimism about the prospects of defense cooperation. The Western European Armaments Group and the Western European Armaments Organization, which were expected to be the nucleus of a European arms agency, never met the expectations placed on them when they were created.<sup>37</sup> Even so, cooperation achieved some results, as the EUREKA program and the European Space Agency (ESA) show.

The Amsterdam Treaty, signed in 1997, was the first revision of the TEU.<sup>38</sup> Among the changes it brought, the approach to defense matters became more nuanced. Article J.4 became Article J.7, and was rewritten as follows: “The common foreign and security policy shall include all questions relating to the security of the Union, including the progressive framing of a common defense policy, in accordance with the second subparagraph, which might lead to a common defense, should the European Council so decide.”

The new Article J.7 also includes a vague reference to the creation of an armaments agency: “The progressive framing of a common defense policy will be supported, as Member States consider appropriate, by cooperation between them in the field of armaments.”

The device of constructive abstention was added to the CFSP pillar (in Article J.13), by which a member state that did not want to be part of a given decision could abstain, and thus avoid subsequent involvement, thus allowing the others to proceed without consensus or unanimity, as is the norm with intergovernmental methods. CFSP, the Schengen Agreements, and the Monetary Union are examples of variable geometry in the EU, a concept first formally proposed in a 1975 report by Belgian Prime Minis-

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<sup>36</sup> So named after the castle near Bonn where the WEU summit specifying the tasks took place. The tasks are: humanitarian and evacuation operations; peacekeeping; crisis management; and peace enforcement (Article 17-2). The full text of the Petersberg Declaration is available at [www.assembly-weu.org/en/documents/sessions\\_ordinaires/key/declaration\\_petersberg.php](http://www.assembly-weu.org/en/documents/sessions_ordinaires/key/declaration_petersberg.php).

<sup>37</sup> Todd Sandler and Keith Hartley, *The Political Economy of NATO* (Cambridge: Cambridge University Press, 1999), 21–17; and John Lovering, “Rebuilding the European Defence Industry in a Competitive World: Intergovernmentalism and the Leading Role Played by Companies,” in *Restructuring the Global Military Sector*, Vol II: *The End of Military Fordism*, ed. Mary Kaldor, Ulrich Albricht, and Genevieve Schméder (London: Pinter, 1998), 225–27.

<sup>38</sup> It was signed on 2 October 1997, and entered into force on 1 May 1999.

ter Leo Tindemans.<sup>39</sup> Amsterdam also created the post of High Representative (HR) for CFSP, to be exercised by the Secretary-General of the Council, as a sort of EU minister for foreign affairs. This was a small but very important step (in institutional terms) toward political union.

Few events had the relevance of the St. Malo summit meeting in 1998 between British Prime Minister Tony Blair and Jacques Chirac, the President of France. This meeting marked the turning point at which the U.K. agreed to be part of a European non-NATO common approach to defense.<sup>40</sup> Six months later, the Cologne European Council created the European Security and Defense Policy (ESDP) within the framework of the CFSP,<sup>41</sup> which would be focused on security, and had the potential to be significantly more effective than CFSP, despite its *high politics* nature. From then on, the EU took on the missions that it had planned to delegate to the WEU. To give substance to the ESDP, the Helsinki European Council in December 1999 defined the *Helsinki Forces Headline Goal*, to be realized by 2003: the ability to put in place within sixty days an expeditionary force of up to 50–60,000 military personnel to be deployed for at least a year that is able to execute of the full range of Petersberg Tasks.<sup>42</sup>

Two wars also played a crucial role in the creation of the ESDP: those in Bosnia (1992–95) and Kosovo (1999). If the technological and military gap between the United States and the Europeans was visible since at least the first Gulf War in 1991,<sup>43</sup> it became strikingly obvious to all Europeans in Kosovo. The U.S., pushed into acting

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<sup>39</sup> Leo Tindemans, *L'Union Européenne. Rapport de M. Leo Tindemans au Conseil Européen*, Commission des Communautés Européennes, Bulletin des Communautés Européennes, Supplément 1/1976. The full text of the report is available via [www.ena.lu/the\\_tindemans\\_report-020100267.html](http://www.ena.lu/the_tindemans_report-020100267.html).

<sup>40</sup> The text of the joint declaration from the summit is available at [www.atlanticcommunity.org/Saint-Malo%20Declaration%20Text.html](http://www.atlanticcommunity.org/Saint-Malo%20Declaration%20Text.html).

<sup>41</sup> Since Maastricht, Denmark has secured an option to opt out of defense matters in the TEU.

<sup>42</sup> It should be noted, as a point of reference, that it took the U.K. in 2003 seventy days to put in place a military force of 45,000 men in Kuwait; "European Defence: Ready or Not," *The Economist* (24 May 2003): 29.

<sup>43</sup> The gap is especially noticeable in the areas of expeditionary capacity, satellite communications, and intelligent weapons. For a deeper analysis of the gap by subsectors see Assembly of the WEU, *The Gap in Defence Research and Technology Between Europe and the US* (Paris: WEU, Document A/1718, 6 December 2000); Fondation pour la Recherche Stratégique (FRS), *Analyse de la Notion de 'Gap' – Le 'Gap' Transatlantique* (Paris: FRS Research and Documents, No. 27, May 2002); Katia Vlachos-Dengler, *From National Champions to European Heavyweights: The Development of European Defense Industrial Capabilities Across Market Segments* (Santa Monica, CA: RAND Corporation, DB-358-OSD, 2002); and Keith Hartley, "The Future of European Defence Policy," *Defence and Peace Economics* 14:2 (January–March 2003): 107. The current discussion about the gap is the modern equivalent of the 1960s discussion about burden-sharing; see David Yost, "The U.S.-European Capabilities Gap and the Prospects for ESDP," in *Defending Europe: The EU, NATO and The Quest for European Autonomy*, ed. Jolyon Howorth and John T.S. Keeler (New York: Palgrave-MacMillan, 2003), 86–93.

as “Europe’s pacifier,”<sup>44</sup> had to use force on European soil to solve a European problem that the Europeans could not agree among themselves how to solve, and which they lacked the means to address. As Peter van Ham wrote, “‘Kosovo’ made it painfully clear that Europe depends upon the American military capabilities. However, it also underlined the reality that US leadership in Europe is tenuous and that most Americans are unwilling to risk their lives in messy European conflicts in which their national interests are hardly at stake.”<sup>45</sup> Philip Gordon echoed the impact of U.S. intervention in Kosovo: “Europeans now seem to understand better than before how great the capabilities gap is. ... Neither their publics nor their leaders seem prepared to make the financial sacrifices necessary to produce such capabilities any time soon.”<sup>46</sup>

The second revision of the TEU came with the Nice Treaty.<sup>47</sup> It kept the changes introduced in the previous revision and institutionalized, under the Council of Ministers, the military resources needed for the missions that the EU committed itself to in Maastricht and Amsterdam but, in the end, could not delegate to the WEU. The Council includes the Political and Security Committee (PSC), which has power to negotiate treaties,<sup>48</sup> and can give guidelines to the Military Committee (EUMC),<sup>49</sup> whose chairman participates in the PSC meetings. There is Military Staff (EUMS) under the authority of the EUMC, whose role is to implement the decisions and guidance of the EUMC.<sup>50</sup> This is the current EU arrangement for carrying out its military missions: a small planning cell without military forces, which is made up of primarily the same member states that allocate forces for NATO missions, which are deployed under national, not EU, command. This model seems to provide some duplication of NATO structures (if not an outright alternative),<sup>51</sup> although NATO has a full planning capability, more assets, and more experience than the EU.

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<sup>44</sup> To use Josef Joffe’s expression; see Josef Joffe, “Europe’s American Pacifier,” *Foreign Policy* 54 (Spring 1984): 64–82.

<sup>45</sup> Peter van Ham, *Europe’s New Defense Ambitions: Implications for NATO, the U.S. and Russia*, The Marshall Center Papers No. 1 (Garmisch-Partenkirchen: George C. Marshall European Center for Security Studies, 30 April 2000), 8.

<sup>46</sup> Philip Gordon, “Their Own Army?” *Foreign Affairs* 79:4 (July-August 2000): 14.

<sup>47</sup> It was signed in 26 February 2001, and entered into force on 1 February 2003.

<sup>48</sup> Created by Council Decision 2001/78/CFSP of 22 January 2001, but it received full legal basis in 2003 in Article 25 of the TEU, entering into force after the Nice revision.

<sup>49</sup> Created by Council Decision 2001/79/CFSP of 22 January 2001.

<sup>50</sup> Created by Council Decision 2001/80/CFSP of 22 January 2001.

<sup>51</sup> Wished for by the Euro-Gaullists. In one of the numerous examples of Euro-Gaullist assertiveness, specifically about the 2003 invasion of Iraq, Belgium, France, and Germany floated the idea of deepening the integration process among themselves, including the creation of a defense planning organization independent of NATO, and proposed the city of Tervuren (Belgium) as its central location. Then the idea was quietly dropped. See “Europe in the World: Facing Responsibility,” *The Economist* (23 November 2002): 21–23; “Will a Quartet of Euro-enthusiasts Undermine NATO?” *The Economist* (03 May 2003): 27–28; Steven Everts and Charles Grant, *Mission Impossible? Managing the Growing Divide Between Europe and the US* (London: Centre for European Reform, 23 December 2002).



Even during the Iraq crisis in 2003, France and the U.K. promoted approaches that relied on defense cooperation and ESDP action. At a summit meeting in Le Touquet in 2003, Chirac and Blair agreed on the general terms of the first ESDP mission, called Concordia, and carried out in the FYR Macedonia.<sup>52</sup> They also reached agreement on the creation of an intergovernmental defense agency to implement the capability development required by ESDP, and on the creation of rapid (fifteen days) military reaction forces, made up of about 1500 ground troops from either one member state or from several, in cases where interoperability is not a problem. These forces would later become known as “battle groups,” and met with robust participation by most EU member states; the groups achieved full operational capability in 2007.<sup>53</sup>

Significantly, the EU adopted its own security strategy for the first time in 2003, asserting itself as a security actor.<sup>54</sup> Since then, the EU, via the ESDP, has assumed the responsibility for some international military missions, as shown in Table 1, albeit using the means of NATO or of certain member states (the EU has taken on a combined total of fifteen military and non-military missions). However one assesses these facts, it is remarkable how far Europe has come since 1951, when the integration process began with a cooperation agreement limited to the economic sectors of coal and steel.

Table 1: EU Military Missions under the ESDP.<sup>55</sup>

Mission	Country	Beginning/End	Framework
CONCORDIA	FYR Macedonia	31 March / 15 December 2003	NATO/Berlin+
ARTEMIS	D.R. Congo	12 June / 1 September 2003	France
EUFOR-Althea	Bosnia and Herzegovina	2 December 2004 / ongoing	NATO/Berlin+
EUFOR-Chad/RCA	Chad / RCA	March 2008 / ongoing	France

<sup>52</sup> Full text of the Le Touquet Declaration is available at [www.ambafrance-uk.org/Franco-British-summit-Declaration,4970.html?var\\_recherche=touquet](http://www.ambafrance-uk.org/Franco-British-summit-Declaration,4970.html?var_recherche=touquet).

<sup>53</sup> The designation *battle groups* appeared for the first time in the declaration of the Franco-British Summit of London of 24 November 2003. The troops allocated to the battle groups are the same offered to the NATO Response Force. See Steven Everts, L. Freedman, C. Grant, F. Heisbourg, D. Keohane, and M. O’Hanlon, *A European Way of War* (London: Centre for European Reform, May 2004); Gustav Lindstrom, *Enter the EU Battlegroups*, Chaillot Paper No. 97 (Paris: WEU-ISS, February 2007).

<sup>54</sup> European Council, *A Secure Europe in a Better World – The European Security Strategy* (Brussels, 12 December 2003).

<sup>55</sup> All EU missions taken on under the ESDP are listed at [www.consilium.eu.int/cms3\\_fo/showPage.asp?id=268&lang=pt](http://www.consilium.eu.int/cms3_fo/showPage.asp?id=268&lang=pt).

Without planning capabilities and assets of its own, the EU made use of assets on loan from NATO for EU-led crisis management operations (CMO) under the “Berlin-Plus” framework agreement.<sup>56</sup> In addition to capabilities or assets, the EU may request a NATO commanding officer for an EU-led military operation, and the Berlin-Plus arrangement establishes the Deputy Supreme Allied Commander Europe as the first candidate for the job.

Both organizations are pleased with this level of cooperation and the transparency of the relationship. It should be noted that it also allows the United States and Turkey, as NATO members, to know in some detail about—and, to a certain degree, to interfere in—EU-led operations. But this is only as it should be, since their assets may also be involved in these missions and, since they are member states of NATO, they may thus be dragged into a crisis situation or war.

The financing of EU operations under the ESDP is subject to the ATHENA mechanism, in the CFSP budget of the Council.<sup>57</sup> According to the TEU, the Communities budget can support administrative expenses, but (in general) not operational ones.<sup>58</sup>

The latest political and institutional development of the European integration process is the Treaty of Lisbon.<sup>59</sup> After failing to get the constitutional treaty ratified, due to its rejection in referenda in France and the Netherlands in 2004, the EU took stock and adapted the text produced by the Convention on the Future of Europe (2002–03) to a revision of the treaties. It was signed in Lisbon on 13 December 2007, and it is expected to be ratified during 2008 and be in force in 2009. In relation to defense broadly construed, the following points should be noted:

- The EU is to succeed the European Community and the pillar structure is to be abandoned, but the community and intergovernmental decision methods will remain largely as before
- The HR for CFSP becomes HR of the Union for Foreign Affairs and Security Policy, and will be Vice-President of the European Commission (ECom), and hence subject to consent by the European Parliament (joining two old pil-

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<sup>56</sup> Which consists essentially of an exchange of letters between EU and NATO representatives; dated 17 March 2003.

<sup>57</sup> Established in Council Decision 2004/197/CFSP of 23 February 2004, and altered by Council Decision 2004/925/EC of 22 December 2004 and Council Decision 2005/68/CFSP of 24 January 2005.

<sup>58</sup> Annegret Bendiek and Hannah Whitney Steele, “The Financing of the EU’s Common Foreign and Security Policy,” *Stiftung Wissenschaft und Politik* 16 (June 2006): 1–7.

<sup>59</sup> After the creation of the European Defense Agency (2004), which is addressed elsewhere in this article. The Treaty of Lisbon will be, if and when it is ratified by all twenty-seven EU member states, the third revision of the TEU, and will reform the European Communities. It will be designated the Treaty on the Functioning of the European Union.

lars—the intergovernmental pillar of the CSFP, and the Community pillar of the ECom); he will also have a European foreign service<sup>60</sup>

- Creates the post of President of the European Council, elected by its members, for a term of two-and-a-half years, mainly for external representation of the EU
- Creates a solidarity clause, recognizing that NATO is the primary alliance for collective defense
- The defense exception was maintained, but its contents were moved from Article 296 to Article 346
- No significant change was made to the dispositions relative to the CFSP (Article 17 of TEU after Nice), except that the European Defense Agency (EDA) now has treaty-dignity.

Enhanced Cooperation status was extended to the CFSP in Nice, as a variable geometry device within the EU, but the minimum number of states to initiate a mission was raised to nine.<sup>61</sup> This was intended to provide a possible alternative to states that decide to deepen their cooperation within the EU framework, instead of seeking such cooperation under a new international treaty, like Schengen. However, the procedures involved in an Enhanced Cooperation arrangement are complicated, and the advantages it holds over an international treaty are not obvious.

### *European Defense Economics*

This section reviews briefly the main developments related to the politico-economic side of the defense sector. Integration in this sector requires many steps primarily at the political level, so that only after the regulatory framework is in place can markets function across borders. That is my main concern here, instead of the specific evolution of defense equipment, defense industries, or the market in general.

*Defense Resources.* By the 1960s, the success of the process of European integration and significant improvements in national economies and standards of living were clear, while the U.S. saw its external accounts deteriorate, in part because of the costs of maintaining its forces in Europe. This disparity led to the discussion of burden-sharing within NATO<sup>62</sup>; the U.S. asked the Europeans to take on more of the costs of

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<sup>60</sup> This would seem to be a new European diplomatic corps, but it is still very vaguely characterized in Article 27 of the TEU.

<sup>61</sup> It is a mechanism created with Amsterdam, except for the second pillar, which had to wait until Nice (Article 27). The conditions for Enhanced Cooperation in the CFSP because of their rigidity became known as the “ten commandments.”

<sup>62</sup> Mostly by Charles Hitch and Roland McKean, *The Economics of Defense in the Nuclear Age* (Cambridge, MA: Harvard University Press, 1960), ch. 15; and Mancur Olson, *The Logic of Collective Action: Public Good and the Theory of Groups* (Cambridge, MA: Harvard University Press, 1965). For an academic analysis in the field of economics, see Mancur Olson and Richard Zeckhauser, “An Economic Theory of Alliances,” *The Review of Economics and Statistics* 48:3 (August 1966): 266–79.

operating NATO or face a reduction of U.S. forces and protection against the USSR.<sup>63</sup> As a result, the Eurogroup was created inside NATO to be the main forum for arms and burden-sharing cooperation.<sup>64</sup> In 1970, the European member states implemented a coordinated increase of 3 percent of their arms expenditure for NATO through the Eurogroup, in the European Defense Improvement Program.<sup>65</sup>

Until then, and in most cases after that, arms were acquired by each NATO state on a purely national basis, creating duplication and interoperability problems. Despite the advantages of standardization, there was success in NATO only at the operational-military level. Thomas Callaghan estimated in 1975 that market fragmentation in NATO costs Europe about 25 percent of its combined arms procurement budget, and 10 percent in the U.S., compared to a free trade system for defense products within NATO. This amounted to a total of about USD 10 billion, which was hardly small change.<sup>66</sup>

When implementing the SEM, there was pressure to eliminate Article 223 and the defense exclusion, but nothing changed.<sup>67</sup> Concerns about autonomy on a critical pillar of sovereignty were more relevant to the member states than the costs of fragmentation, which were only then becoming clear:

NATO's defense budget resources are wasted.... The waste begins as duplication of effort in the development phase, continues as a loss of economy of scale in the production phase, and peaks as a waste of facilities, spares, overheads and (particularly) manpower in the logistic support phase. ... With different weapons and equipment, requiring different ammunition and spares, each Allied country must look to its own ... logistic support for re-supply. ... The weakest link in the entire Allied defense chain is thus this NATO vulnerability to sustained conventional at-

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<sup>63</sup> In that sense, there was strong pressure exerted in 1966 by U.S Senator Mike Mansfield; Gülnur Aybet, *The Dynamics of European Security Cooperation, 1945-91* (London: Palgrave, 2001), 121.

<sup>64</sup> It combined all European member states of NATO, represented by their National Armaments Directors (NAD). It is not related to the EU states that adopted the EURO as their common currency after 1999.

<sup>65</sup> Carl Damm and Philip Goodhart, *The Eurogroup* (Brussels: North-Atlantic Assembly, 1972); Callaghan, *U.S./European Economic Cooperation in Military and Civil Technology*, 77–79; Sandler and Hartley, *The Political Economy of NATO*, 208–15; and Aybet, *The Dynamics of European Security Cooperation*, 122–26.

<sup>66</sup> Keith Hartley disputes Callaghan's assumptions, but agrees that the potential savings are significant. See Keith Hartley, *NATO Arms Co-Operation* (London: George Allen & Unwin, 1983), 10–11.

<sup>67</sup> Sandler and Hartley, *The Political Economy of NATO*, 159.

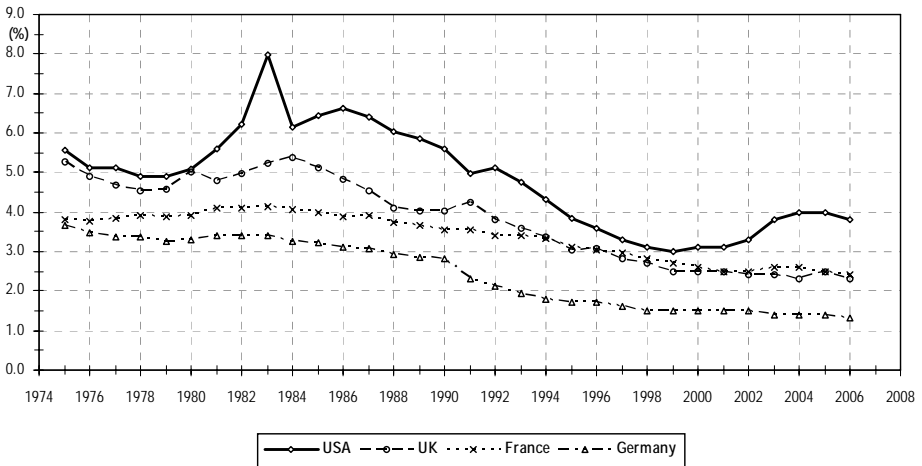


Figure 2: Defense Expenditures as a Fraction of the Respective GDP (Source: NATO).

tack. ... There is no lack of resources. What has been lacking is a coordinated effort pitting the technological and industrial resources of NATO.<sup>68</sup>

This situation generated a multidimensional gap between the U.S. and Europe, further aggravated by a consistent difference in the fraction of national resources allocated to defense, which has been much smaller in the EU for the last thirty years, as shown in Figure 2 (before 1975 it was nearly the same).

Hartley and Cox estimated the “costs of non-Europe” at about 10–20 percent of total EEC weapons acquisition costs.<sup>69</sup> If the EU started a program of capability improvement in order to eliminate the gap with the U.S.—even if it had a single defense market for arms—it would still need to spend between USD 23–56 billion in order to achieve a comparable level of military capabilities.<sup>70</sup>

If a defense free trade area allowed annual savings of USD 10–15 billion, it would require two years (at best) to reduce the gap. In fact, such savings take time to materi-

<sup>68</sup> Thomas A. Callaghan, Jr., *U.S./European Economic Cooperation in Military and Civil Technology* (Washington, D.C.: CSIS Press-Georgetown University, September 1975), 14 and 35–37. As Robert Grant wrote, “EU member states spend the equivalent of about 60% of the US defence budget, but the return in military capabilities is only the equivalent of 10%.” Robert Grant, *The RMA – Europe Can Keep in Step* (Paris: ISS-WEU, Occasional Paper No. 15, June 2000), 2–3.

<sup>69</sup> Keith Hartley and Andrew Cox, *The Costs of Non-Europe in Defense Procurement. Main Report* (Brussels: European Commission-DGIII, May 1988).

<sup>70</sup> Data from a study from the RAND Corporation for four scenarios; See Charles Wolf, Jr. and Benjamin Zycher, *European Military Prospects, Economic Constraints, and the Rapid Reaction Force* (Santa Monica, CA: RAND Corporation, MR-1416-OSD/SRF, 2001).

alize, and the U.S. would continue to pull away from Europe, while arms unit costs would still continue to grow rapidly. In addition, arms take time to fabricate, and the armed forces take time to integrate them and make them fully operational. In short, one could estimate roughly a period of no less than five years to close the gap; this is considering only the technical timetable, with all political conditions presumed to be favorable.

So, all studies show that the product obtained by combining all the European programs based on autonomous national budgets is not the same as the product obtained with one single defense budget equal to that total. But fragmentation still persists, as Table 2 shows.

Table 2: Fragmentation in Europe<sup>71</sup> (Source: EU, 1995).

System	Europe	U.S.
<b>Land Systems</b>		
Main Battle Tank	4	1
Armored Infantry Vehicle	16	3
155mm Howitzer	3	1
<b>Air Systems</b>		
Attack Fighter	7	5
Ground Attack Trainer	6	1
Attack Helicopter	7	5
Anti-ship Missile	9	3
Air-air Missile	8	4
<b>Naval Systems</b>		
Frigate	11	1
Anti-submarine Torpedo	9	2
Diesel Submarine	7	0
Nuclear Powered Submarine	2	1
<b>TOTAL</b>	<b>89</b>	<b>27</b>

<sup>71</sup> Jean-Pierre Darnis, G. Gasparini, C. Grams, D. Kehoane, F. Liberti, J.P. Maulny, and M.B. Stumbaum, *Lessons Learned from European Defence Equipment Programmes*, Occasional Paper No. 69 (Paris: WEU-ISS, October 2007), 18. See also Pierre De Vestel, *Defence Markets and Industries in Europe: Time for Political Decisions?*, Chaillot Paper No. 21 (Paris: WEU-ISS, November 1995); and UNISYS, *Intra-Community Transfers of Defence Products: Final Report* (Brussels: European Commission, February 2005).

The gap still widens due to the continuous growth in the unit cost of weapons, for one or more of the following reasons<sup>72</sup>:

- The increased costs of research and development (R&D) for increasingly sophisticated requirements and technological solutions
- The increased production costs of more sophisticated systems
- Despite some export successes, smaller production runs in Europe, which cannot dilute large overheads and exploit economies of learning.

This point suggests that small states should be the champions of free trade; that is the only way they can sell in large enough markets, and have sufficiently long production runs (even if only in niche areas) to dilute overheads and economically justify a product. However, past experience shows that small states tend to focus on protecting inefficient domestic industries, through offsets and *juste retour*.<sup>73</sup>

In fact, there is a free trade area in arms between two NATO members, and a successful one too: it is based on the 1941 Hyde Park Agreement between the United States and Canada.<sup>74</sup> Proposals for all NATO states to reject protectionism and create a transatlantic defense market (a free trade area in arms) would be consistent with the principles of cooperation and peaceful conflict resolution of the NATO alliance.<sup>75</sup> Such appeals have been aired since 1975, but without success.<sup>76</sup>

The most important point, however, is the increase in efficiency that could be internalized forever. Not only that: the fears of lagging behind, and of an increasing tech-

<sup>72</sup> Philip Pugh, "The Procurement Nexus," *Defence Economics* 4 (1993): 179–94; David Kirkpatrick, "The Rising Unit Cost of Defence Equipment—The Reasons and The Results," *Defence and Peace Economics* 6 (1995): 263–88; and David Kirkpatrick, "Trends in the Costs of Weapon Systems and the Consequences," *Defence and Peace Economics* 15:3 (June 2004): 259–73.

<sup>73</sup> Offsets are forms of compensation, offered through coproduction, technology transfers, or barter, that some governments demand from foreign arms producers when importing arms; see Callaghan, *U.S./European Economic Cooperation in Military and Civil Technology*, 55. *Juste retour*, also called "fair shares" or "fair return," is a method of balancing the transactions within a given project. As Thomas Callaghan writes, "Because the make-buy transaction (or project) must be financed by the cooperating countries' defense budgets, the tendency has been to balance the financial, industrial, technological and economic accounts within the project." Callaghan, *U.S./European Economic Cooperation in Military and Civil Technology*, 53, 40.

<sup>74</sup> Full text of the Hyde Park Agreement is available at <http://www.questia.com/PM.qst?a=o&d=14931400>.

<sup>75</sup> "National autarky makes neither military nor economic sense within an alliance. Having taken the step of relying on our allies for mutual front line defense against the USSR, it is inconsistent to argue that we can not rely on them to supply weapons...." Deborah Logsdon, *European Community Defense Industries: Threat to U.S. Competitiveness?* (Washington, D.C.: The Industrial College of the Armed Forces, National Defense University, 1993), 32.

<sup>76</sup> Callaghan, *U.S./European Economic Cooperation in Military and Civil Technology*, 57 and 106.

nological gap between the EU and the U.S., should fade and eventually vanish, along with many vestiges of political rivalry.

The end of the Cold War brought a reduction of defense expenditure and forces—the so-called peace dividend—estimated at USD 106 billion per year.<sup>77</sup> The downside of this dividend, however, was factory closures, job losses, and regional recessions.<sup>78</sup> To help governments deal with the social consequences and to mitigate the losses, the ECom created the PERIFRA<sup>79</sup> and KONVER<sup>80</sup> programs, with funding of about ECU 3 billion from 1991–99, to support training of jobless workers and conversion of defense industries.

This shows that a matter that was apparently purely confined to the defense arena had a wider social impact, that a gain (the peace dividend) can also have a downside, and how the pillars of the EU have to work together, just as in domestic policy. It also shows that there are ways to compensate for the negative implications of defense restructuring.

*Cooperation in Arms Procurement.* It was noted that in 1945 there was autarky and no cooperation among the Europeans, or between European states and the U.S. That changed definitively for the broader economy with the Marshall Plan in 1948,<sup>81</sup> and for many European armed forces with the Mutual Defense Assistance Program.<sup>82</sup>

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<sup>77</sup> “Survey – Defence and the Democracies,” *The Economist* (1 September 1990):16; and Hartley, “The Future of European Defence Policy,” 108.

<sup>78</sup> Germany suffered the biggest reductions (a total of 79 percent), mostly in the East (50 percent), followed by the U.K. (8 percent), Italy (4.5 percent), and France (4 percent). Bonn International Center for Conversion (BICC), *Konver II—Fostering of Conversion by the European Union*, Report 9 (Bonn: BICC, March 1997), 11. For the U.K., see Paul Bishop and Rose Gripaios, “The Regional Impact of Cuts in U.K. Defense Spending,” *Defense Analysis* 11:2 (1995): 175–87.

<sup>79</sup> PERIFRA I (1991) had funding of ECU 40 million, of which 21 million was for conversions; PERIFRA II (1992) had funding of ECU 50 million, of which 31.4 million was for conversions; BICC, *Konver II—Fostering of Conversion by the European Union*, 19.

<sup>80</sup> KONVER I (1993) had funding of ECU 130 million; KONVER II (1994–99) had funding of ECU 500 million (about 0.4 percent of the Community Budget in each of those years) until 1997, but the funding level could increase to ECU 744 million in 1999.

<sup>81</sup> “Through these and related initiatives American Marshall planners hoped to create an integrated European market – one that could absorb German power, boost productivity, raise living standards, lower prices, and thus set the stage for security and recovery on the Continent and for a fully multilateral system of world trade.” Michael Hogan, “American Marshall Planners and the Search for a European Neocapitalism,” *American Historical Review* 90:1 (February 1985): 45.

<sup>82</sup> “The new agreement affirmed in the military sphere what the Marshall Plan had pointed out in the economic sector – the necessity of American participation in all phases of the European quest for survival.” Hans A. Schmitt, *The Path to European Union*, 37.



Cooperation started loosely and with small steps in the 1950s (the early stages of NATO), with particular successes in the development and production of aircraft.<sup>83</sup> Forty programs of arms cooperation were started and completed between 1958 and 1998; France was the most active partner, followed by Germany, the U.K., and Italy. But the story of arms cooperation is irregular, and was marred by many failures.<sup>84</sup>

Having realized the limits of autarky, and concluding that European defense could not develop outside of NATO, France returned to the fold in 1995. A few days later, it agreed with Germany on a new set of principles on defense cooperation, to replace the current protectionist logic based on *juste retour*. After some small WEU member states refused to abandon the *juste retour* model,<sup>85</sup> France, Germany, Italy, and the U.K. created (in the 1996 Treaty of Farnborough), the *Organisation Conjointe de Coopération en matière d'Armement* (OCCAR), an international organization to manage contracts of collaborative arms acquisition or services provision. Given specifications produced elsewhere<sup>86</sup>—for example, under contract or cooperatively—OCCAR manages contracts for delegations of participating states, and administers only one contract per common weapon system (as opposed to one specific weapon and contract per state), with obvious gains in scale and learning economies. OCCAR became operational in 2001, with Belgium and Spain joining later. The programs it currently manages are listed in Table 3.

Given the difficulties of dealing with classified matters and equipment, France, Germany, and the U.K. agreed in 1997 in principle to further the restructuring of their defense industries—mostly the electronics and aerospace subsectors—in order to make them more competitive with those of the United States.<sup>87</sup> In 1998, the original OCCAR-four plus Spain and Sweden signed a letter of intent to simplify the restructuring (mergers, acquisitions, and closures).<sup>88</sup> This was followed by a treaty completed

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<sup>83</sup> The Transall C-160 is perhaps the best example; Reiner Pommerin, “Le Transall C 160. L’Histoire d’une ‘Bête de Somme’,” in *Historie de la Coopération Européenne dans L’Armement*, ed. Jean-Paul Hébert (Paris: CNRS Éditions, 2004), 45–53.

<sup>84</sup> Patrick Facon, “Le Projet de Programme Commun Européen Aéronautique du Général Léchères, 1950-1953,” in *Historie de la Coopération Européenne dans L’Armement*, ed. Jean-Paul Hébert, 17–25; and Jean-Paul Hébert, “D’Une Production Commune à Une Production Unique? La coopération Européenne en Matière de Production d’Armement Comme Moyen de Renforcement de l’Autonomie Stratégique Européenne,” in *Historie de la Coopération Européenne dans L’Armement*, ed. Hébert, 200–17.

<sup>85</sup> In particular, Greece and Belgium; Jocelyn Mawdsley, *The European Union and Defense Industrial Policy*, Paper 31 (Bonn: Bonn International Center for Conversion, 2003), 18.

<sup>86</sup> Axelle Masson, “Le Cadre Institutionnel de la Coopération en Matière d’Armement en Europe,” in *Historie de la Coopération Européenne dans L’Armement*, ed. Jean-Paul Hébert, 194–95.

<sup>87</sup> Full text of this agreement is available at [www.fas.org/nuke/guide/uk/corp/120997.htm](http://www.fas.org/nuke/guide/uk/corp/120997.htm).

<sup>88</sup> Letter of Intent between Six Defence Ministers on Measures to Facilitate the Restructuring of the European Defence Industry, 6 July 1998. See Burkhard Schmitt, *From Cooperation to Integration: Defence and Aerospace Industries in Europe*, Chaillot Paper No. 40 (Paris: WEU-ISS, July 2000), 17.

Table 3: OCCAR Current Programs (Source: OCCAR, 2005).

<b>Program</b>	<b>System</b>	<b>Collaborative States</b>
A 400 M	Tactical and strategic airlifter	Belgium, France, Germany, Spain, Turkey, U.K.
BOXER	Multi-role armored vehicle	Germany, Netherlands
COBRA	Counter-battery radar	France, Germany, U.K.
FREMM	<i>Frégate Européenne</i> multi-missions	France, Italy
FSAF	Family of surface-air anti-missile systems	France, Italy
PAAMS	Principal anti-air missile systems	France, Italy, U.K.
ROLAND	In-service support	France, Germany
TIGER	Helicopter	France, Germany, Spain

in 2000 between the same states called the Framework Agreement.<sup>89</sup> Two of these three instruments are treaties showing the will of the participating states to cooperate, but at the intergovernmental level and outside of the EU, although for overall EU benefit.<sup>90</sup>

All the developments outlined above—and certainly those coming after the 1960s, with the pressures of increasing unit costs of arms, globalization, and spillover from other sectors and policies (foreign and domestic)—convinced the bigger states to cooperate in depth, and limit their autarky in the defense sector. In fact, no defense sector can be considered truly national any more, perhaps not even in the United States, let alone in Europe.<sup>91</sup>

At the same time, small states remain protectionist. There may be two reasons for this. The first is that small states feel they will not be allowed to share power after the

<sup>89</sup> Framework Agreement Between The French Republic, The Federal Republic of Germany, The Italian Republic, The Kingdom of Spain, The Kingdom of Sweden and The United Kingdom of Great Britain and Northern Ireland Concerning Measures to Facilitate the Restructuring and Operation of the European Defence Industry, Farnborough, 27 July 2000.

<sup>90</sup> Masson, “Le Cadre Institutionnel de la Coopération en Matière d’Armement en Europe,” 193–97.

<sup>91</sup> *Livre Blanc de la Défense* (Paris: La Documentation Française, 1994), 116, 120.

restructuring of industries,<sup>92</sup> so they would lose what little they have with no adequate compensation to show domestically. The second reason is that any losses in economic activity and sovereignty mean proportionally more to small countries than to bigger ones. The troubles of the seven-year experiment of two-headed (French and German) management at EADS-Airbus lend support to this view.<sup>93</sup>

In 1996, the ECom presented its first official communication about defense, in which it proposed the creation of an European Defence Equipment Market (EDEM).<sup>94</sup> The European Parliament supported it, but the Council did not, nor did the member states that were not then ready to accept the loss of some “national champions” through mergers and closures. So the ECom reviewed its stance and presented two new communications in 1997, one on the aerospace industry (the most advanced and integrated of European defense industries, and also the one that faces the highest level of direct competition with the U.S.), and the other about defense industries in general.<sup>95</sup> Having unsuccessfully aimed at eliminating Article 223, the ECom was able to press for a more restrictive definition of the limits of the defense exception, with the help of the European Court of Justice.<sup>96</sup>

In 2003, the ECom saw an important breakthrough, as Regulation 150/2003 was published, suspending import duties on certain weapons and military equipment – in effect bringing the arms trade within the Competition Policy (the exclusive domain of the Community) and representing a step toward setting up the EDEM. Later the same year, the ECom produced its latest communication about defense economics, but it failed to get support from the Council and the member states.<sup>97</sup>

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<sup>92</sup> Companies are not too effective if they practice a democratic decision-making process that demands wide discussion and shared agendas, so they avoid collective executive bodies and collective decision-making processes featuring many stakeholders and their circumstantially varying interests. The option for only one chief executive tends to serve the interests of the bigger states, which are in a much better position to fill that post with one of their own, even if on a rotating basis. They may argue that the biggest clients are the biggest shareholders too, hence they should have a right to control operations. But this is a self-defeating argument, since a company is preferred for its managerial professionalism, and this is no exclusive preserve of large states.

<sup>93</sup> Through a very complicated shareholder structure, the French state and the German private company Daimler (currently; at its creation in 2000 it was Daimler-Chrysler) control EADS with equal stakes. See B. Schmitt, *From Cooperation to Integration*, 40–45.

<sup>94</sup> European Commission (ECom), *The Challenges Facing the European Defence-Related Industry: A Contribution for Action at European Level*, COM(96) 10 (24 January 1996).

<sup>95</sup> European Commission (ECom), *The European Aerospace Industry Meeting the Global Challenge*, COM(97) 466 (24 September 1997); and *Implementing European Union Strategy on Defence-Related Industries*, COM(97) 583 (12 November 1997).

<sup>96</sup> For example, on their decision in *Commission v. Spain*, of 29 October 1998, on the case C-114/97, and on the decision in *Commission v. Belgium*, of 9 March 2000, on the case C-355/98. The matter of proportionality of an exception or derogation was dealt with, among others, in the decision in *Commission v. Spain*, of 16 September 1999, on the case C-414/97.

<sup>97</sup> European Commission (ECom), *European Defence – Industrial and Market Issues. Towards an EU Defence Equipment Policy*, COM(2003) 113 (11 March 2003).

*Export Controls.* Another important domain of EU action is on export controls, which are put in place to avoid the proliferation of weapons of mass destruction (WMD), as well as the means for their delivery (missiles), mines, small arms, or dual-use goods. The EU and its member states are part of several international regimes or treaties that impose both political and legal obligations on this trade. The most important are the Chemical Weapons Convention (a binding treaty, evolved from a 1925 Protocol); the Nuclear Non-Proliferation Treaty (in force since 1970), and the associated to it Zangger Committee and Nuclear Suppliers Group (regimes dedicated to the control of exports that can be used to fabricate nuclear weapons); the Biological and Toxin Weapons Convention (a binding treaty, in force since 1975); the Australia Group (created in 1985); the Missile Technology Control Regime (created in 1987); and the Wassenaar Arrangement (a regime created in 1996 to replace the CoCom, which was dissolved in 1995).

In 1998, the Council of Ministers of the EU also agreed on a Code of Conduct on the Arms Trade, but the form chosen for the code, a Declaration, means the member states of the EU have still only their weak political will to encourage them to avoid the destructive competition between them on the export of arms.

*Industrial Restructuring and the Defense Market.* A last note is in order about the transformations that have taken place in the European defense industries. The restructuring started domestically and then, after the 1998 Letter of Intent, crossed borders, generally following an Anglo-Saxon capitalist model of the private firm. By then, the U.S. had finished its own process of defense transformation.<sup>98</sup> The restructuring efforts undertaken by various countries and firms can be classified in four main groups<sup>99</sup>:

- Abandoning the defense sector (e.g., Philips and Siemens)

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<sup>98</sup> This process started at what has become known as the “Last Supper,” in which the Deputy Defense Secretary William Perry announced cuts in U.S. defense procurement to an audience of chief executive officers of big defense firms, forcing the industries to restructure. See Harvey Sapolsky and Eugene Gholz, “Restructuring the U.S. Defense Industry,” *International Security* 24:3 (Winter 1999): 5; and Gilles Le Blanc, “Dépenses Militaires, Restructuration de l’Industrie d’Armement et Privatisation de la Défense: Analyse Comparée France–États-Unis 1994-1999,” *Arès* 28:46, fasc. 3 (2000): 48.

<sup>99</sup> Sandler and Hartley, *The Political Economy of NATO*; François Heisbourg, ed., *European Defence: Making it Work*, Chaillot Paper No. 42 (Paris: WEU-ISS, September 2001); Vlachos-Dengler, *From National Champions to European Heavyweights*; Jean-Paul Hébert, “L’Européanisation de l’Industrie d’Armement et l’Autonomie Stratégique de l’Europe,” *Arès* 19:48, fasc. 2 (January 2002): 45–59; Defence Analysis Institute (DAI), *Prospects on the European Defence Industry* (Athens: DAI, April 2003); and Hartley, “The Future of European Defence Policy.”

- Conversion of publicly administered services into private firms, e.g., the Direction des Constructions Navales (DCN),<sup>100</sup> or Groupement Industriel de l'Armement Terrestre (GIAT)<sup>101</sup>
- Privatization of state-owned companies,<sup>102</sup> e.g., British Aerospace (BAe), the Swedish firm Celsius, the Italian firm Alenia Aerospazio, the Spanish company Construcciones Aeronauticas, SA, the Greek firm Hellenic Shipyards, and the French companies Aérospatiale and Thompson-CSF
- Mergers and acquisitions, e.g., the creation of BAe Systems<sup>103</sup> after buying Ferranti and GEC-Marconi, and the creation of EADS after Daimler-Chrysler Aerospace AG bought the Spanish company CASA and then merged with the two French firms Aérospatiale and Matra; also the creation of Thales (2000) from Thomson-CSF and others, and MBDA (2001) from Matra Défense, Lagardère and BAe Dynamics.<sup>104</sup>

After this wave of restructuring, Europe had four large defense groups, mostly transnational in scope, and able to compete with the big American companies of this sector:

- The British firm BAe Systems, broadly present in all defense industries
- EADS, registered in the Netherlands and controlled by the French state and the German company Daimler, strongest in the aerospace subsector
- Thales, mostly French, dedicated to several defense industry subsectors, but strongest in the information systems subsector
- MBDA, a British-French-Italian venture dedicated to the missile subsector.

It is true that these firms are still viewed largely as “national champions,” or even as “European champions,” with a duty to accommodate the national policies and interests of their shareholders. This weakens them, because it subsumes their desired

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<sup>100</sup> French Government decision of July 2001, made effective in 31-May-2003; Jean-Daniel Levi and Hughes Verdier, *De L'Arsenal à L'Entreprise* (Paris: Albin Michel, 2004).

<sup>101</sup> Frédérique Barnier, “Les Transformations des Relations entre l'État et les Producteurs d'Armement: le Cas de GIAT-Industries,” in *État et Firmes d'Armement en Europe*, ed. Jean-Paul Hébert (Paris: CIRPES, Collection Cahier d'Études Stratégiques, No. 22, 1998), 107–16.

<sup>102</sup> Richard Kaufman, ed., *Privatization in North-Atlantic Cooperation Council Countries – Colloquium 1994* (Brussels, 30 June – 1 July 1994); Alexander Kennaway, “Privatization of Defence Industries in the Framework of Privatization at Large,” in *Privatization in North-Atlantic Cooperation Council Countries*, ed. Kaufman; Jean-Paul Hébert, ed., *État et Firmes d'Armement en Europe* (Paris: CIRPES, Collection Cahier d'Études Stratégiques, No. 22, 1998), and Elisabeth Sköns and Richard Weidacher, “Arms Production,” *SIPRI Yearbook 2002* (Oxford: Oxford University Press, 2002), 341–46.

<sup>103</sup> Yves Bélanger and Jean-Paul Hébert, “BAe Systems au Coeur du Processus de Globalisation de l'Industrie de Défense,” *Arès* 19:47 (April 2001): 41–54.

<sup>104</sup> B. Schmitt, *From Cooperation to Integration: Defence and Aerospace Industries in Europe*.

commercial working logic to circumstantial political interests, thus losing focus. On the other hand, this privileged national footing gives them monopoly power and invulnerability before governments, as they are too big or too strategic to fail or go bankrupt.

To limit their power, they should compete globally, but this has yet to be explored due to the European inclination for protectionism, known as *la préférence Européenne* or “Fortress Europe.” It is argued to the contrary that full competition with the stronger American firms will lead the Europeans to rapid bankruptcy or huge losses (particularly since, as is correctly noted, the U.S. also practices protectionism).<sup>105</sup> However, there are signs of change in U.S. policy: the choice of Northrop Grumman-EADS (Airbus) to build a refueling aircraft in a competitive procurement program is helping the competition argument against protectionism.<sup>106</sup>

It is not clear what will be the long-term economic result of this restructuring wave: economies of scale and less duplication were its main motivations, but if there is no competition in the market and companies feel invulnerable to failure, there may be little pressure on managers to focus on generating value for money and containing costs and waste. It is also the case that the enormous and increasing cost of modern weapon systems demands that the producers of arms, besides selling to their own governments, export them in order to recover indirect costs. This is even more the case for the Europeans, because they produce shorter production runs of each item. Even after the recent rounds of restructuring, they tend to be focused on their home markets or have only limited access to foreign markets. It is for this reason that a free transatlantic defense market would be good for NATO.

Such a market, allowing for defense restructuring to operate across the Atlantic Ocean (as envisaged for the EDEM) will probably also bring factory closures and unemployment in the process of improving efficiency. The gains in efficiency may be widespread in space and time, while the costs will all be met up front, giving an incentive to the losers to protest, but no incentive to the winners to contradict the losers. Hence, restructuring tends to receive bad press both in Europe and the U.S.

It should also be recognized that in the strategic arms subsector (nuclear weapons and submarines and strategic missiles) production runs will hardly ever be long enough to lower unit costs through economies of scale and learning, or through exporting. In addition, producers will not share all the relevant information and capabilities of these highly sophisticated systems with buyers, even if they are allies. The critical importance of these arms for all states that have them—not for their use but for their deter-

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<sup>105</sup> The Merchant Marine Act of 1920 (with many changes up to 2002), whose promoters declared it, served mainly as a tool to protect injured seaman, establishes that ships that engage in domestic trade should be built and flagged in the United States and crewed by its citizens, thus revealing its protectionist nature. Also, the so-called Buy-American Act, or Title 41 of the United States Code of 1933 (with many changes since), regulating public contracts, is a clear protectionist tool.

<sup>106</sup> David Litterick, “Pentagon Awards Air Tanker Contract to EADS,” *telegraph.co.uk* (4 March 2008); available at [www.telegraph.co.uk/money/main.jhtml?xml=/money/2008/03/03/cneads103.xml](http://www.telegraph.co.uk/money/main.jhtml?xml=/money/2008/03/03/cneads103.xml).

rent power— becomes an insurmountable barrier to totally free trade.<sup>107</sup> However, this market is just a niche of the overall defense sector (albeit a costly niche), and it does not justify a wide policy of autarky or protectionism.

There have already been some changes within the biggest EU member states in the armored vehicles and warship subsectors,<sup>108</sup> but they have yet to be restructured at the European level.<sup>109</sup> Shipyards lag behind other sectors, probably because they focus on the cheapest part of the warship as a weapons system: the platform. On platforms, there are not great economic gains to be had from technological restructuring, and there is not much competition from the United States (competition is tougher with Asia, and in the commercial ships subsector). Of course, there would be gains in economies of scale that could be realized by concentrating production and increasing production runs, but the costs in national pride and unemployment are still too high for governments to accept. Perhaps more important, most shipyards serve military and civilian clients, which have very different requirements and approaches, and they hesitate to establish restructuring priorities. Despite being a lucrative niche, demand is extremely variable, and shipyards try to hedge their bets by maintaining a presence in various segments. However, most big shipyards in Europe are already integrated with other defense companies, like BAe Systems, Thales, and HDW (Germany).

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<sup>107</sup> Of course, one could argue whether nuclear weapons really provide any deterrent function, since it is very hard to imagine a Western government using nuclear weapons, due to the devastating consequences they would have not only on an aggressor, but also, sooner or later, on the defender. While in the Cold War the stock of nuclear weapons served to deter the USSR from using them first, the more probable future threats are bodies that are not deterred by nuclear retaliation. New states with nuclear weapons hardly believe the nuclear powers would use nuclear weapons against them, for internal more than strategic or tactical reasons, while they let it be known that they have them to deter aggressors. So states have nuclear weapons to not use them; but to have them creates a doubt, which changes the strategic calculus of a potential aggressor, and that may justify having them (just enough to make the point). See Robert S. McNamara, "The Military Role of Nuclear Weapons: Perceptions and Misperceptions," *Foreign Affairs* 62:1 (Fall 1983): 59–80

<sup>108</sup> The most recent development occurred in France, when Thales bought a 25 percent share in DCN, whose control is now shared by the French state and the private company, Thales, in which the French state also holds a 31 percent stake; Thales corporate press release, "Thales and DCN Welcome Brussels Decision on Closer Ties Between the Two Groups," 20 March 2007; available at [www.thalesgroup.com/naval/Press-Room/Press-Release-search-all/Press-Release-search-result/Press-Release-Article.html?link=345B536E-480A-3918-1C08-7346134A3616:central&locale=EN-gb&Title=Thales+and+DCN+welcome+Brussels+decision+on+closer+ties+between+the+two+groups&dis=1](http://www.thalesgroup.com/naval/Press-Room/Press-Release-search-all/Press-Release-search-result/Press-Release-Article.html?link=345B536E-480A-3918-1C08-7346134A3616:central&locale=EN-gb&Title=Thales+and+DCN+welcome+Brussels+decision+on+closer+ties+between+the+two+groups&dis=1). An important aspect is that the French state could have scuttled the deal under the exception in Article 296; however, it did not and let the deal be evaluated by the ECom under its powers of regulating competition. The two companies only considered the deal done after the ECom approved it; European Commission (ECom), *Prior Notification of a Concentration (Case COMP/M.4191 – État Français-Thalès/DCN)*, 2007/C 35/07, 17 February 2007 (published in OJEU C35/50 17.2.2007).

<sup>109</sup> DAI, *Prospects on the European Defence Industry*, 32–37.

*European Defense Agency*

There were several attempts within NATO, the WEU, and the EU to create a European armaments or defense agency, aiming at standardizing equipment and procurement and improving interoperability between the allies.<sup>110</sup> Michel Jobert (former Prime Minister of France),<sup>111</sup> Leo Tindemans (former Prime Minister of Belgium),<sup>112</sup> and Thomas Callaghan all at one time or another proposed the creation of a European armaments agency to improve cooperation and reduce weapons costs. Many reports were produced, mostly in favor of the integration of the European defense sector with protectionist trade policies.<sup>113</sup> A European armaments or defense agency is mentioned in the TEU (Maastricht), but it was only after Le Touquet that France and the UK agreed definitely on its creation. So, in 2004 the European Defense Agency came to life as an intergovernmental EU agency under the authority of the Council, in the CFSP pillar, with headquarters in Brussels.<sup>114</sup> With the exception of Denmark (which can choose to opt out of the CFSP), all other twenty-six EU member states are full participants in the EDA.

EDA's functions are broad, but very dependent on the Council and the participating states, and must be cooperatively realized by all of them. This will inevitably be a cause of frustration among those that expect EDA to produce effective and rapid results. In short, the main functions of the EDA are:

- The development of defense capabilities, including the identification and harmonization of requirements and the proposal of collaborative activities, for crisis management operations
- The promotion of European armaments cooperation, including promoting and proposing new cooperative projects to meet ESDP requirements, managing specific programs through OCCAR, and promoting cost-effective procurement
- The strengthening of the defense industrial base and helping to create the EDEM

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<sup>110</sup> Recall that the Military Agency for Standardization (NATO) and the Standing Armaments Committee (WEU) were the earliest ancestors of the present EDA.

<sup>111</sup> See Callaghan, *U.S./European Economic Cooperation in Military and Civil Technology*, 79.

<sup>112</sup> Leo Tindemans, *L'Union Européenne*, 1975. He also accepted the idea of integration at several speeds, according to national options. See Urwin, *The Community of Europe*, 218–21; Zorgbibe, *Histoire de la Construction Européenne*, 181–96; and Burgess, *Federalism and European Union*, 106–16.

<sup>113</sup> To cite just the most important: Egon Klepsch, *Report on European Armaments Procurement Cooperation*, European Parliament Working Group 83/78 (8 May 1978); David Greenwood, *Report on a Policy for Promoting Defence and Technological Cooperation Among West European Countries*, for the Commission of the European Communities (1980); the Vredling Report (IEPG, 1987) of the Independent European Program Group; Terrence Guay, *At Arm's Length – The European Union and Europe's Defence Industry* (London: MacMillan, 1998), 45; and Aybet, *The Dynamics of European Security Cooperation*, 160.

<sup>114</sup> Council Joint Action 2004/551/CFSP, of 12 July 2004.



- The enhancement of the effectiveness of European R&D efforts (when appropriate, in articulation with the ECom), including promoting research for future defense and security requirements, coordinating and planning joint research, and managing defense R&D contracts.

Its budget is represented in Table 4, and its manpower is currently about one hundred.

If EDA were to become an operational agency, its operational expenditures, not staff, should be the dominant item. The allocation of operational expenditures to studies and projects, and not contracts or R&D, suggests that EDA is mostly a state bureaucracy and does not seem to be articulated with OCCAR.

Table 4: EDA Financial Information (EURO million) (source: EDA Financial Reports)

<b>Year</b>	<b>Staff</b>	<b>Staff Exp (%)</b>	<b>Operat. Exp* (%)</b>	<b>Budget</b>	<b>Revenue</b>	<b>Expenses</b>	<b>Accounting Surplus</b>
2004	8	72	0	1.93	1.8	0.4	+ 1.4
2005	79	58	20	21.2	20.7	12.8	+7.9
2006	94	58	21	22.3	22.7	18.8	+ 3.9

\* Operational expenditure for operational studies and projects.

It has been announced (and EDA has reported in its latest financial statement) that the agency will manage a €55 million collaborative R&D program, with a total sum of defense expenditures for all the EU member states of about €193 billion, of which less than €10 billion are allocated to R&D. It is a beginning. But it is not clear why the €55 million are not included in the EDA budget.

It is still too early to decide on the merits of the EDA. Its website shows its broad priorities: to develop the capabilities and industries to reduce Europe's dependence on non-Europeans in defense equipment and research, and to prepare an armaments strategy.<sup>115</sup> It is not clear what is to be achieved by EDA in precise terms, or when. That is probably due to the fact that it needs the consensus of all twenty-six participant states, and that makes the process and the results almost impossible to predict, both in time and content.

Perhaps more importantly, the EDA has vague objectives; even worse – it lacks goals. It tries to emulate a state agency, but it does not operate in a state; so the EDA appears to be a fish out of water, and even with the best of intentions the participating

<sup>115</sup> See [www.eda.europa.eu/genericitem.aspx?area=Background&id=324](http://www.eda.europa.eu/genericitem.aspx?area=Background&id=324).

states are not really sure what they want from it. If its mission is to improve the efficiency of the procurement process (defined broadly, including R&D), then it is an economic problem and should be in the Communities brief. But it is under the authority of the Council, meaning that it is viewed as a matter of *high politics*, or at least as something precious to the participating states.

EDA has asserted its opposition to offsets and national protectionism, but the wording suggests that it may support European protectionism, leaving open the question of why protectionism is bad nationally but good for Europe. EDA opposition to protectionism probably explains why the member states (mostly small states, and prone to protectionism) are reluctant to favor a centralization of procurement (again, including R&D).

So, why do states—or, more accurately, governments—decide it is so important for them to control an agency embroiled in *low politics*, when they have agreed to pool sovereignty in so many policy areas? Before advancing an explanation, it should be noted that domestic arms agencies have clear goals and procedures, and articulate with other state agencies. Typically, they procure arms for the national armed forces, in line with each state's national security strategy and force plan.<sup>116</sup> This model has no equivalent in the EU. It is true that the EU has a security strategy, but the institutional setting is not even remotely similar to that of any state; more importantly, the EU security strategy was not followed by the development of a military strategy and a force plan, guided by a coherent set of policy documents to shape defense policy. Without an EU force plan, the EDA is left with a residual area of arms procurement for the participating states. Moreover, being outside of the EU Public Administration, which is under the authority of the ECom, but within a parallel and distinct bureaucracy, under the authority of the Council, it is even more difficult to assimilate the EDA to the form of a domestic arms agency.<sup>117</sup>

Returning to the central question, governments are accountable to their national publics, and not to a European people. With each reduction in sovereignty (pooled or traded for something else), governments permanently lose instruments of political action to deliver results to their national voters, and these people expect to be convinced

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<sup>116</sup> That is, the number and composition of human resources and equipment needed to meet the national security strategy, determined by the political decisions of parliaments, heads of state, and governments.

<sup>117</sup> No doubt a fascinating research theme is the emerging duplication of public administrations in Brussels, on each side of the Rue de La Loi: one, under the authority of the ECom; the other under the authority of the Council.

that this was a wise choice.<sup>118</sup> So, the fewer levers these leaders have to work with, the higher the marginal value of each sector in line for integration. It is not surprising that governments try harder to keep these levers for themselves, even if they accept the principle of pooling sovereignty. This is what sovereignty means in practice for governments of small states: levers, and the means to get results domestically.

Of course, a more trivial explanation is just that small states fear big ones. Small states only abdicate sovereignty when they are sure to have a real say in future decisions. All this is very much a matter of perception and subjectivity but, despite the transparency of the environment and the openness of the discussions in the EU, it may explain some otherwise incomprehensible protectionist decisions.

Both explanations imply longer negotiations and decision-making processes, more difficulty with integration, and increasingly vague agreements, which would allow every government to extract its own victory or minimize its loss. As is usual in negotiations, a vague agreement just means that the parties are not ready to commit to anything more substantial; to force an agreement on parties that would not reach it freely builds tensions that will come out sooner or later, bringing the agreement to an early end.

In short, perhaps the only way to create the EDA within the EU—an old political dream with a history of its own—was by having it sit idle on the sidelines, while waiting for states to restructure their domestic defense industries, and while searching for its place in the institutional setting, which itself is not a state, and does not seem clear what it really is. Considering the complexity of the entire integration process, one can only expect that it will take a long time for EDA to fulfill its promises, if it ever will.

## **Specific Nature of the Integration of the European Defense Sector**

For all the economic appeal of the integration process, and for all the gains that could potentially be realized by participation in the EDEM, there are costs to be considered, although many are difficult to quantify. This does not mean that they cannot be considered in an economic analysis, only that they are more subjective and complex. This section will present the path and the steps toward full integration, and thus it will become clear how much progress Europe has made along the path of integration.

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<sup>118</sup> It may be very difficult for some governments these days to explain the domestic advantages of the single currency, when people believe the European Central Bank sets interest rates based on the prevailing economic average conditions of the Euro-states, not the conditions of their own state, and they occasionally suffer for that. People in countries that have rates much lower than they had historically (or would have outside of the single currency) rarely think of that, and do not even notice that in their own countries the monetary policy before the Euro had to be set for an average, and some regions lost and others gained from that. In short, governments have fewer instruments to “deliver the goods” to their publics, and have difficulty in being believed when explaining policies. It cannot come as a surprise that governments do their best to keep the few instruments they still have to deliver the goods, these being, mostly, employment and growth.

### *The Nature of the European Integration Process*

As discussed above, the process of defense integration in Europe has followed a hybrid path, with a supranational component, through the Communities, and an intergovernmental component, through treaties and regimes used in the other two pillars of the EU and other sectors, particularly in the defense sector. It was also mentioned above that the intergovernmental method of decision-making requires consensus, which takes longer to achieve, than majority decisions applied in supranational bodies.

The integration process started in 1948, in the Congress of Europe in The Hague. At that time, those in favor of supranational structures (known as the federalists) lost, and had to wait until the ESCS was created. The model had been conceived by David Mitrany and was later adapted to the European environment, in a descriptive way, by Ernst Haas: national economies were progressively integrated, sector by sector, by spillover, or *engrenage*.<sup>119</sup> Under this view, increasing economic integration was gradually making war less likely, because war was too costly and disruptive to established interests.

Later, Bela Balassa formalized the model in articulated steps that would lead to total integration<sup>120</sup>:

- *Free trade area*: This step achieves the free of circulation of goods through the removal of all customs barriers (tariffs, quantitative restrictions, and quotas), but each state retains its sovereignty in dealing with third states. It is a case of negative integration, because it eliminates norms and barriers.
- *Customs union*: This step goes beyond the free trade area concept by having a common commercial external policy, characterized by common customs tariffs and common trade agreements. To the negative integration phase it adds a positive one, by establishing new norms. The first integration goal of the EEC was the realization of a customs union.<sup>121</sup>
- *Single market*: The single market goes beyond the previous step by having full liberty of circulation of goods, people, and capital, meaning the removal of all customs and non-customs barriers (such as technical, fiscal, or health standards). Although the EEC was often called the “Common Market,”<sup>122</sup> it was only on 1 January 1993 that it became the Single European Market (and still featured many exceptions, like defense or pharmaceuticals).
- *Economic and monetary union*: This stage adds a common currency; for fourteen member-states of the EU, at present, it is the Euro (€).

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<sup>119</sup> See David Mitrany, *A Working Peace System* (Chicago: Quadrangle Books, 1943); and Ben Rosamond, *Theories of European Integration* (New York: Palgrave, 2000), 31–42.

<sup>120</sup> Bela Balassa, *The Theory of Economic Integration* (London: R.D. Unwin, 1961).

<sup>121</sup> Which it achieved on 1 July 1968, eighteen months ahead of the schedule set forth in the Treaty of Rome (EEC).

<sup>122</sup> For de Gaulle (and Thatcher), “Le Marché commun, c’est un tarif extérieur commun.” Alan Peyrefitte, *C’était de Gaulle*, vol. 3 (Paris: Éditions de Fallois–Fayard, 2000), 339.

- *Political union*: The final step adds a common set of state institutions to govern the new polity and defines a wide range of matters where they will take precedence over individual states' sovereignty. In the defense sector, there should be a common defense policy and a common defense.

Of course, this model derives in large measure from experience, because when it was formulated there was only a program covering the first three steps.<sup>123</sup> In practice, two more processes exogenous to this model converged in the integration process: the role of the European Court of Justice (ECJ), and bringing into the Communities policies that emerged from outside the first pillar, or even outside of the EU.

The ECJ has been critical to the success of the integration process. For example, it was through ECJ rulings that the principle of primacy of EU law over national law emerged.<sup>124</sup> This principle has never been challenged in treaty revisions by member states, not even by France or the U.K., so it has become a settled fact (albeit one that has never been clearly stated before the peoples of Europe). It is because it favored a pro-integration interpretation of the treaties that it became widely viewed as one of the engines of the integration process, in a way similar to how the U.S. Supreme Court functioned in its early days.<sup>125</sup> The ECJ was always careful to avoid pressing too much for integration (and going against the deeply-held views of the member states), with the result that there is some basis for accusations of inconsistency.<sup>126</sup> That, however, may have been the wisest position: to try and amass the largest possible constituency in its favor (and in favor of integration) or at least not to elicit widespread opposition against its jurisprudence and its existence.

Schengen is the best example of the process of importing policies into the Community: the process and its policy developed outside the EU, growing out of two international treaties between several member states. It was brought into the third pillar, and then transferred to the first. Schengen also represents one example of variable geometry in the EU. Thus, it is an example to consider in relation to defense: both OCCAR and the Framework Agreement (both based on international treaties whose parties are member states of the EU) can, in time, be brought into the EU and even into the first

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<sup>123</sup> Based on premises established at the General Agreement on Tariffs and Trade, in 1947 (GATT-47).

<sup>124</sup> Starting with judgment *Van Gend en Loos* of 5 February 1963, in case 26/62.

<sup>125</sup> "The Court is generally regarded as one of the most 'European-minded' institutions in the Community"; Trevor Hartley, *The Foundations of European Community Law*, 4<sup>th</sup> edition (Oxford: Oxford University Press, 1998), 54. "And, as with the Supreme Court in its more expansive moods, ECJ decisions have often reflected a clear federalist ideology"; "Who Killed the Constitution?" *The Economist* (20 December 2003). This, of course, was a major reason for including it in the Communities from the outset, since these were inspired by the federal model of the United States.

<sup>126</sup> Examples of caution were the judgment in *Commission v. France* of 9 August 1994, on case C-327/91; Opinion 1/94 of 15 November 1994; Opinion 2/92 of 24 March 1995; Opinion 2/94 of 28 March 1996; and judgment in *Commission v. United Kingdom* of 12 May 1998, on case C-106/96. See Hartley, *The Foundations of European Community Law*, 158–70.

pillar, even if they are incorporated in an Enhanced Cooperation framework that is not binding to all member states.

The process described above may not have any additional steps, but it is a safe bet that it will take a very long time to move from the fourth step (economic and monetary union) to the fifth (political union). Simply following the example of the United States may not be the best course of action, given that a devastating civil war was needed to decisively establish the federal political union in the United States.

### *Security and National Defense*

All actors in economics and politics pretend that the sector they operate in is different from all others, and in a narrow sense they are all correct. But the defense sector has specific aspects that truly differentiate it from all other areas of state action.

The first issue is that defense is the very essence of the nation-state; as Max Weber stated, the state is a political enterprise whose defining characteristic is that its administrators uphold a claim on a monopoly on the legitimate use of violence.<sup>127</sup>

Sovereignty is also part of the essence of the state: all states are equal in this regard.<sup>128</sup> Internally, the state does not recognize any authority above or even equal to itself, in particular with respect to the competence of auto-organization (called, in German, *kompetenz-kompetenz*).

In Weber's widely accepted definition, one can separate the provision of the means to apply force from the technical use of force. In addition, Weber did not argue that the means by which force is applied are part of the essence of the state, only the power and responsibility to decide to apply force. This is not a mere academic note. Some novelties, like state contracts with private military companies, pose a challenge to the traditional (albeit historically recent) view of the state, but do not conflict with the essence of the definition above. Likewise, the essence of the state is undamaged by engaging private defense firms. Nor is it damaged by a free trade in arms between allies (with the limits recommended by security concerns). Of course, these novel options have disadvantages, as do the more traditional approaches; the novel options are just more adapted to a globalized world, where scarcity of resources is the norm that demands that states do more and better with less.

The reasons that best justify internalizing the three areas just discussed within the state are efficiency and criticality. Often they have to be balanced against each other, because they present opportunity costs to all states; even so, criticality usually takes precedence over priorities when states face existential threats. Their relation to internalization is as follows:

- *Efficiency*: If the overall cost to a state of producing something itself is bigger than by getting it done from a contractor, it should not internalize the task; all costs and benefits have to be taken into account with a view of the entire

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<sup>127</sup> Max Weber, *Économie et Société*, in two volumes (Paris: Pocket, 1995 [1914]), 1:97.

<sup>128</sup> This was elevated to a general principle in the United Nations Charter (Article 2, paragraph 1).

country in mind, even those that are hard to quantify (the state serves the country as a whole, and not any one sector in particular, however important).

- *Criticality*: For example, in order to defend itself from aggression, a country's economy may have to be transformed into an integrated logistic system to support the war effort. This may require that factories come under state command and control, since their production is critical in achieving the desired result of defeating imminent threats or aggression. Criticality also includes secrecy. For example, a specific technological solution may provide a critical advantage against a threat, or a country may have a grave vulnerability and should wish to conceal it from threatening opponents.

All producers of sophisticated arms have restrictions on the technology they are authorized to transfer to buyers—even if the customer is a loyal ally of the firm's home nation<sup>129</sup>—because the state where the firm is located has concluded that some technologies are genuinely critical, and do not want to share them and potentially lose some strategic advantage.

One can still argue that the national firms have better reasons to serve the pillars of their own state (as is the case with all matters related to defense), even if only for emotional reasons, thus justifying national (or European) protectionism. Of course, if such a preference is internalized within the people involved, then there is no need for state rules, because their decisions will freely reflect a national (or European) preference. If there are protectionist norms in place, however, that means the first choice that people would make is not for the national (or European) option, so states or the EU have to impose it.

The case of each state accepting only its own nationals as members of its armed forces is not a universal rule, and regulations in this regard may become more flexible in the future, and maybe in more ways than simply implementing provisions around contracts with private military companies.<sup>130</sup> EU member states have not contracted with private military companies to the same extent that the United States has, but the resource constraints that led the U.S. along that path may become too compelling for Europe to resist. This outcome may be even more likely given the further constraint that Europeans (if one believes the media reports) are less willing to accept casualties in conflict situations, particularly if these soldiers are their own nationals.

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<sup>129</sup> For one, differences in interests may lead to states being in different camps in the future (although, if two nations' interests are so different, then one could wonder why and how they are cooperating together in a far-reaching defense alliance. The reason that states resist allowing national defense firms to sell their products to other nations may just be mistrust and fear that the technology might end up where it should not.

<sup>130</sup> There are already foreign corps in the armed forces of some countries, like the Foreign Legion in France, the Gurkhas in the U.K., or the Legion in Spain. Even further, since 2001 Spain has been recruiting foreigners into its armed forces (mostly South Americans) for jobs that do not require specialized skills. See, for example, <http://www.clarin.com/diario/2001/06/12/i-02801.htm>; or [http://www.eldiariomontanes.es/prensa/20070626/nacional/nueva-legion-extranjeros-puebla\\_20070626.html](http://www.eldiariomontanes.es/prensa/20070626/nacional/nueva-legion-extranjeros-puebla_20070626.html).

Finally, it is difficult to understand why Western states—which have for so long declared their intent to solve their conflicts without the use of force and have a long and successful defense alliance—still have such difficulty in sharing their defense assets. For example, why do some Western states resist having their military forces under the command of officers from other nations? And why do they reject the formation of a single market in arms? These phenomena suggest that there is still some mistrust, as this quote from 1990 illustrates: “No big European country is yet willing to let the core questions of defense—who organizes the armed forces on our soil, and who orders them into action?—be decided anywhere else than in its own capital. ... A single European defense policy is not coming soon.”<sup>131</sup> Even so, the continual roll call of new multinational defense structures in Europe—Eurocorps, Eurofor, Euromarfor, the battle groups—show that there is a clear drive toward integration underway, even if each of these structures individually are small forces and in some ways exceptional.

Distinct national strategic goals are also at the root of the reluctance to integrate. For example, the U.K. and France have nuclear weapons and, understandably, want to preserve control of the deterrent effect they offer. Also, some EU states have privileged relations with their old colonies (like the U.K., France, Portugal, and Spain) and want to preserve those relations, for reasons of both economic and national power.

No matter how much each country might wish to have full strategic autonomy, in the age of globalization this is impossible to achieve in full. As stated above, certain critical aspects can be internalized, but even the cost of only internalizing those areas directly related to security is excessive at present, and it is even more burdensome to organize a nation for a permanent state of war. The result of such an effort would be a command economy, and it would collapse like the USSR.

So each state has to find a balance that minimizes its risks and vulnerabilities (accepting there will always be some of both) and comes at a reasonable cost. In terms of preserving autonomy over the arms and equipment for its armed forces, the solution is to ensure security of supply, which most likely cannot be achieved by producing everything in the state or under a protectionist regime. Applying this to the EU and its member states, it would appear that a better solution than the insistence on either national autonomy or the “fortress Europe” mentality is to promote competition in the several subsectors of the defense industry. There may be problems when demand is too small to sustain competition in the European or global markets, but this poses fewer challenges than the duplication of defense industries.

Apart from some very limited critical niches, cultivating the widest possible competition is the option that best serves the interests of buyers. The apparent vulnerability of a state depending on a private company in a competitive market for arms and equipment may appear to be serious, but in effect is robust in important aspects. The first such benefit—and one that is often overlooked—is that critical production facilities are high-value targets for an opponent; the less there are of them, the higher the level of protection is required (and the higher the cost), and the bigger the loss if a fa-

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<sup>131</sup> “Survey – Defence and the Democracies,” *The Economist* (1 September 1990): 19.



cility is damaged. Second, with multiple, geographically separated suppliers operating in a market, there is redundancy in supply. Third, since the various suppliers that are in competition all depend on their customers to remain operational, they have to serve their buyers' interests, contrary to the example of many national defense firms, who know that they have a guaranteed stream of business.

In short, in a globalized world with acute resource scarcity, strategic autonomy (meaning having sufficient national capacity to enable a state to not depend on others) is simply too costly, as well as being of doubtful effectiveness. The alternative is to ensure security of supply from competing suppliers.

### *Limits to the Free Trade in Arms*

The trade in arms is different from most other trade because it is not free; in general, arms can only be sold across borders with export permits, even if the seller is a state and not a private company.<sup>132</sup> This holds true for both small arms and large weapon systems. So, if all governments agree to follow the same rules of transparency, it is a totally controlled trade.

It is also a special case in that the client of a defense firm is a government. In fact, the government is often the only client of a national supplier, particularly one that the government regulates or owns. Another characteristic that is specific to the arms trade is its involvement in the competition between governments. As a result, the functioning of the defense industrial sector was for a long time mostly hidden from public view, but privatization and taxpayer pressure are working to make the operations of the sector more transparent.

Of course, arms are critical tools of power: those who have them may impose their will on others. For example, people with arms can bring about change in the people who are in government; people with arms can also resist abuses by their government. So it is not arms, but rather people, and the use they make of arms, that are the critical elements to consider when reviewing the arms trade. It is for this reason that the EU has established export controls that are heavily dependent on the buyer and the intended use of the arms (i.e., trade is limited to EU member states and other states that are party to various international treaties and non-proliferation regimes).

One issue to note at this point is that the goal of improving national defense industries may conflict with the goal of non-proliferation. This is both the case internally, because most states do not want their citizens to use force to solve conflicts among themselves, and even less to oppose state authorities, as well as externally, because most states prefer to sell arms to friendly states and organizations, and not to those that may in the future turn against the seller or use the arms to cause humanitarian crises.

An even more specific point to consider is the fact that some weapons are so potent that there is no room for mistakes, which is why WMD require even stronger levels of regulation and control. And since these weapons can be fabricated from dual-use goods, such controls have to be applied to apparently innocent civilian goods. But most

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<sup>132</sup> Both the pharmaceutical and chemical industries have their trade regulated within the EU as well.

of this regulation can, in practice, only be performed on items that are crossing borders or are in the possession of suspicious characters.

## **Prospects of the Defense Sector and European Integration**

It is always hard to predict future policies and policy results, but it is even more difficult when the decision-making process involves not just one national process but twenty-seven national processes. However, it seems safe to predict that, whatever the end result of the integration process will be, it is not going to happen soon. There is now (and will be for years) a significant level of uncertainty about where the EU is and where it is heading.

In the section below, I analyze the preferences of the main actors of the defense sector regarding defense integration. It does not make sense to aggregate or weight such preferences; the goal of the analysis is to try to anticipate reactions to policies. The next goal is to analyze possible future scenarios for integration in the defense sector.

### *The Actors' Preferences*

The first actor to be analyzed is collective: the defense industries. National and European champions tend to prefer integration, because they would then be regarded as “too strategic to fail,” which would render them invulnerable. This conclusion may apply to managers and some other employees, but it would not protect unskilled workers, because their jobs are low-paying and not protected. Small and medium-sized companies may prefer integration, because they would gain automatic access to wider markets and opportunities, although they would also face a higher level of domestic competition. Still, more sales should translate to growth for such firms.

Another important actor is the High Representative (to be Vice-president of the ECom). He should be clearly in favor of defense integration, because he would find his powers increased, including in the Communities. In fact, his new position as defined under the Treaty of Lisbon—to coordinate supranational and intergovernmental processes—spells out this increase in authority perfectly clearly.

The ECom is, by the nature of its mission (which is to develop the Communities) the most solid supporter of integration, and has often displayed this support in its papers and positions on defense. The change in the composition and size of the ECom established in the Treaty of Lisbon should not change the essence of its position, but should give the bigger states more control over the integration process, enabling them to advance it further when it suits them.

The European Parliament (EP) has been one of the main supporters of defense integration (along with the ECom), as should be expected from its direct election and its role. But direct election may produce different results—and even some potential surprises—in the future. On the other hand, the EP has much less power than the national parliaments. So even though there is a (small) margin of uncertainty about the future positions of the EP, it is unlikely the EP will actually be able to change much of the process, whatever it is.

The ECJ is a special actor, and it may even be controversial to include it in this analysis, since it does not take positions on policies, unless one tries to deduce them from its sentences and opinions. Including the court in this discussion, however, reveals the crucial role that the ECJ has played in the integration process.<sup>133</sup> It is important to keep in mind, though, that the ECJ has oscillated; while its decisions have more often than not helped to promote the integration process, it has also been careful to avoid decisions that would generate strong opposition from governments or damaging tensions.

The European Council and the Council of Ministers are intergovernmental organs, but they work for the Communities in some instances. Thus, they are divided in their approach, and decide on a case-by-case basis.

National governments are a collective actor domestically (albeit often dominated by a global vision or a head of government) and act collectively in the Council, but they have distinct priorities and preoccupations, not least with specific election cycles and policy concerns. It is consistent with past experience that small states tend to be more protectionist and oppose the restructuring and integration of the defense sector, because their governments would irrevocably lose levers of power to the bigger states, without receiving adequate compensation. It should be noted that many small states see in the ECom an ally in the integration process, and many big states take just the opposite view. Hence, defense integration in the Communities could have the support of small states, but it is more difficult for bigger states (and certainly for the U.K.) to accept supranational decisions in such a critical sector. That is why the larger European states pursued defense cooperation outside of the EU in the Framework Agreement, Eurocorps, and OCCAR. In short, for small and big states to agree, either they have to develop the will to find common ground through negotiation, or the winners in the integration process have to agree to adequately compensate the losers. The latter prospect in particular has been thus far constantly out of reach, because of budgetary constraints related to the single currency.

A government will only decide to abdicate some of its sovereign powers in a particular policy area—whether through giving up its powers or by an arrangement of pooled sovereignty with other states—if they conclude that they will gain by doing so. That is, a state will only surrender part of its sovereignty if it concludes that the benefits of doing so will exceed the costs, according to their analysis. As Terrence Guay has written, “After each round of integration, member states protect sovereignty in those policy areas that are functionally linked to areas subject to integration. When these interventions become too costly and counter-productive, states will end their mutual competition in these policy areas by agreeing to integrate further at the EU level.”<sup>134</sup>

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<sup>133</sup> As already referred to above, the principle of the primacy of European law was established by jurisprudence.

<sup>134</sup> Guay, *At Arm's Length – The European Union and Europe's Defence Industry*, 183. See also Dorette Corbey, “Dialectical Functionalism: Stagnation as a Booster of European Integration,” *International Organization* 49:2 (Spring 1995): 253–84.

There is also potential for controversy, since these evaluations depend in some measure on who is producing them, and for what audience. It is perhaps unavoidable that a government will produce evaluations that serve above all the political interests of the people in power (and for good reason, since the people who conduct such analyses have to satisfy those that support them). This view differs from the pleasing, ideal, abstract vision of how governments should operate, but it is closer to reality than an abstraction, and thus may help to produce better explanations.

Another collective actor is the national public administration of each state. Their role is very important, because they have the technical knowledge to prepare and implement policies, and also the capacity to shape governmental agendas, but they are rarely analyzed in this light. Public servants (including military personnel) are educated and trained to serve their country, so it is hard for them to serve other entities, not least those that are supranational in nature. In practice, this means that a state will have to wait for a generation or two of turnover in its public administration to start having its public servants thinking in terms of what best serves Europe as a whole, instead of considering first and foremost the national good. Younger generations may adapt easily to this new way of thinking, but they are under the authority of people educated under the earlier system, who are used to a mindset that places primacy on defending their country. The conclusion is that it is unlikely that the national public administrations will support the integration process (least of all in the defense sector), except perhaps in the six founding member states of the Communities, where integration is fifty years (and two generations) old.

Taxpayers and citizens also play a crucial role in this matter, because they elect governments and react to policies. They are perhaps the most heterogeneous group considered so far in this analysis. But it seems reasonable to assume that centralization would detach them from decisions, reducing their sense of shared responsibility and inclusion that is so important in democratic states. On the other hand, it does not appear that participation in the defense sector is the citizenry's top priority in the nations under consideration here, so centralization (if governed by the adequate democratic control mechanisms) should not be bad. For taxpayers, more efficient use of public resources holds obvious advantages, including allowing for more and better arms. All in all, citizens should as a general rule be in favor of defense sector integration, except when they are losers in the restructuring processes or have strong nationalist or patriotic views.

In short, the ECom and the EP will push for continued integration, and governments will only let the process proceed when they have calculated that the benefits they can offer to their domestic audiences will exceed the costs in lost tools of domestic political action. Without a major change in the situation—e.g., an exogenous shock or the appearance of strong European leaders—this means that the costs and benefits of integration as they are perceived by national governments are broadly the same, and the integration process should proceed very slowly.

## Future Scenarios

The EU has often and consistently declared that it is a power, that it has interests in world affairs, and that it is willing to pay to pursue them.<sup>135</sup> So far these claims are credible in domains like soft power and humanitarian aid. But in the area of hard (or military) power, the situation is closer to Eurosclerosis, as Europe's period of economic decline was called in the 1970s.

To be a credible and effective actor in world affairs, the EU needs power, which is the product of two factors: capabilities and will. Thus, there will be no power if either factor is close to zero.<sup>136</sup> The EU needs power across the entire spectrum of potential scenarios, because in world affairs it will encounter all strategic situations. And the EU needs the ability to project power to distant places, which is one context in which military capabilities are critical. The EU is short on capabilities and the political will to use them; so, it has currently little power (or only soft power). To return to a multilateral discourse, the U.S. recently expressed the wish that the EU would increase its hard-power capabilities, only this time without the usual caveat of duplication, suggesting instead a more equal relationship.<sup>137</sup>

If the EU and its member states really believe in what they declare, they have to increase their efficiency and be determined to obtain the resources needed to pursue their declared worldwide interests. To be more specific, the EU needs to integrate more and to allocate more resources to defense. It may do one or any combination of three things to increase the resources available to defense:

- Substantially increase the rate of economic growth. This is a medium-term solution, but it has not been too effective in the recent past, although not for lack of trying. In fact, EU economies seem too rigid to depend on this option for rapid results.
- Transfer resources from other sectors. With defense consuming on average 1.5 percent of the EU GDP (as opposed to 8 percent for health, and 5 percent for education<sup>138</sup>), an increase in defense spending should not be too damaging to other sectors, except that public opinion tends to oppose such a measure, perhaps merely because no convincing explanations have been offered (nor are there any great leaders to offer them).

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<sup>135</sup> It suffices to mention the strategy espoused by the European Council in their *Presidency Conclusions* from the Lisbon meeting (23–24 March 2000).

<sup>136</sup> Robert Art, "To What Ends Military Power?" *International Security* 4:4 (Spring 1980): 6.

<sup>137</sup> It is remarkable that the United States' permanent representative to NATO, Victoria Nuland, gave two similar speeches within the space of four days (in Paris on 22 February 2008 and in London on 25 February) encouraging European leaders (particularly those in France and the U.K.) to develop EU defense capabilities. See Victoria Nuland, speech to the Press Club of France and the American Chamber of Commerce," Paris, 22 February 2008; available at <http://nato.usmission.gov/Article.asp?ID=21A35613-E9D6-431D-9FD5-36FDD1389EB0>; and Nuland, speech at the London School of Economics, London, 25 February 2008; available at [http://nato.usmission.gov/ambassador/2008/Amb\\_Nuland\\_022508.htm](http://nato.usmission.gov/ambassador/2008/Amb_Nuland_022508.htm).

<sup>138</sup> Round values based on ECom information.

- Increase efficiency in the defense sector. This should produce results in two years' time through the harmonization of requirements, pooling of resources for R&D, and common procurement. This would seem to be the easiest option of all, except for the short-term social costs of unemployment and industry restructuring, both of which tend to generate bad press and low poll numbers.<sup>139</sup>

It is probably easier to solve the problem of capabilities than the problem of will in the formula offered above for generating power: having the resources, it is a matter of procuring, integrating, and using the new systems. But will consists of much more than political declarations; it requires that the people follow a political vision. Political will is without question a complex problem, due to its dependency on long-term commitments, which can be disrupted by things like electoral cycles. It is also difficult to achieve political will due to the difficulty of persuading the citizens in European nations that such will is necessary – citizens who are often highly skeptical of their politicians, and are so rich that they believe they can be insulated from any troubles anywhere in the world.

I cannot predict the future, but I can suggest what broad shape the defense sector will have in five years time. I will propose three scenarios, in the approximate sequence in which they might occur over the long term:

- No integration, only intergovernmental cooperation (this is the trivial scenario, representing no real change)
- Some integration, and some intergovernmental cooperation
- Deep integration, with small areas reserved for individual governmental action.

If the long-term evolution process is to continue according to the tendencies of the past, a fourth scenario would be a United States of Europe. This notion is obviously too far-fetched, and of no analytical value.

But there are two notes to be made about the three broad scenarios listed above. In an environment of intergovernmental cooperation, national governments still have certain relevant powers and it seems reasonable to assume that the area of defense and the armed forces would be one of the last powers that a government would agree to give up or share.<sup>140</sup> Furthermore, it is inconceivable that France or the U.K. would abandon or share control of their nuclear weapons with a supranational and unelected

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<sup>139</sup> It is hard these days to put such problems in perspective before voters: “A politician seen as heartless towards 500 workers risks punishment by millions of watching voters.” “Winners and Losers,” *The Economist* (1 March 2008): 35.

<sup>140</sup> This is still a risky prediction because of the inclination of European governments to avoid defense spending, except when it can be clearly associated with civilian benefits and a guarantee can be made that it will not lead to any casualties. In fact, this was traditionally one of the last redoubts of sovereignty (if not the absolute last), although that may be less the case in a post-modern Europe. See Robert Cooper, *The Breaking of Nations: Order and Chaos in the 21<sup>st</sup> Century* (London: Grove Press, 2004).

EU authority. Since it is extremely unlikely that we will have a federal democratic Europe for decades to come, there will be areas that national governments will not soon abdicate, and control over nuclear weapons will be most likely the last to be shared.

*No Integration, Only Intergovernmental Cooperation.* This is the default or current situation, in which defense is mostly a national policy, excluded from the SEM in the relevant treaties. This was confirmed in 2007, in Article 346 of the Treaty of Lisbon, and it shows that governments do not intend to bring defense under the rubric of the Communities anytime soon. It also shows that there was no consensus among the governments on giving up control over the levers of power in the defense sector. The nature of EDA and the way it is working also suggest strongly that enough governments still prefer to have direct control over the defense sector, and over domestic defense industries in particular.

This means that fragmentation, inefficiency, and interoperability problems will persist, while the gap between EU and U.S. capabilities continues to widen, and while EU credibility and power in world affairs will continue to decline. Fundamentally, it suggests that the EU lacks the will to be a power on the global stage. It also results in an avoidable division of labor in world affairs: the EU focuses on economics and *low politics*, with the advantage of not having to face the prospect of European soldiers coming home in body bags, but it has little capacity of influence. Under the prevailing set of assumptions, Europe is less than the sum of its member states. There is no doubt that many Europeans would accept this rather limited position of the EU, if not outright prefer it. If Europeans are not offered convincing reasons why the EU should be a world power, in all its dimensions, it is not surprising that they might rather be left alone in peace to enjoy their stupendous national wealth. But how long will this choice remain an option?

*Some Integration, but Still Some Intergovernmental Cooperation.* In this scenario, most institutional defense economics would take place within the context of the Communities, with a functioning EDEM and subject to the governance of the SEM. Schengen is an important precedent, showing that it is possible to create a process by international treaty outside of the Communities that can be adopted by the broader community when there is consensus and the time is right.

There are numerous options to have some (as opposed to none or total) integration in the defense sector, and some of these options may be combinations of simpler ones. Here I will address only a few of these choices. The first is to bring the EDA into the Communities and focus it on arms procurement (to exploit the economic benefits offered by a single market) and on R&D (by pooling resources from member states), so that more sophisticated projects and programs become viable. The practical implications of this option would be the harmonization of requirements and specifications of at least some arms procured by the member states, either representing the whole EU or certain variable geometry configurations.

Like all forms of integration, it forces member states to negotiate compromises to explore economic gains that allow savings or better acquisitions, whether in quality or quantity. Compromises are always unavoidable, even on purely national projects; the

cost of arms is currently so high, and still growing so fast, that national security priorities are also giving way to cost considerations. Therefore, integration is unlikely to impose solutions that conflict too much with national culture and habits, but the will to reach a solution acceptable to all is essential.

With EDA in the Communities, OCCAR may stay outside or come into the Communities framework and combine with EDA, emulating an equivalent national agency. If OCCAR stays outside, it may still succeed at its task of obtaining arms or delivering services to its participant states, allowing only one contract for each common weapon system. Remaining outside the Communities might give OCCAR the advantage of not becoming a bureaucratic public agency.

The second step, beyond that just outlined above, is that of common procurement for most arms, which would represent the final stage before a common defense policy, at least in terms of arms. The difficulties are qualitatively the same as in the previous option, although they differ in scale (as do the benefits, particularly in terms of the potential economic gains).

The step, which is desirable in itself, is the creation of a transatlantic defense market – that is, a free trade area in arms within all NATO member states. In other words, in this step there would be no protectionism for defense industries, neither domestically nor regionally. This step implies further industrial restructuring, especially in those subsectors of the defense industry that are currently lagging (warships and armored vehicles), as well as across the borders of small states. Negative impacts on regional economies and on employment are to be expected, which should be addressed with requalification programs like the KONVER and the PERIFRA. The current economic situation in Europe of moderate growth is favorable for these restructuring and requalification programs, but the margins for such public spending are not large.

All the steps above are possible even if the defense exception is kept in the treaties as the safeguard that was originally intended. But the governments should commit themselves to not take advantage of it. If these steps are followed (and, most critically, if the individual states can muster the political will to commit to them), an international custom could form through repeated and consistent practice, easing the widespread internalization of the free trade in arms across the EU without involving either the ECJ or the ECom in the process.

To resist the temptation of having a tool available and not using it—even when it might be so useful in domestic social or industrial policy—will be a tremendous test of the political will of the EU governments. As usual, this is the most difficult requirement. But how long can Europe wait for the will to develop?

*Deep Integration, with Areas Reserved for Governments.* The more challenging (and more long-term) scenario is that in which the states are left with exclusive powers in matters relating to their own survival (e.g., nuclear weapons), but where all other aspects of national defense become part of a common European defense policy. More than political will, this scenario requires profound trust. But we should not assume that such trust is impossible, since what did European states place in the U.S. or in NATO during the Cold War if not a deep trust that its security would be preserved?



As already suggested, it is not a matter of trust, but of governments not losing control over certain domestic levers of power. There have to be significant visible benefits for governments to display to their domestic audiences if they are to successfully persuade the public of the wisdom of abdicating or pooling certain elements of domestic sovereignty in favor of integration.

For there to be any significant change in this regard in the future, there needs to be either an exogenous shock that affects Europe or a new generation of European leaders, so that a quite different calculation of costs and benefits emerges and is accepted. A terrorist attack with WMD, a pandemic, a major surge in immigration from a neighboring failed state, or even extreme and sustained weather effects – all would generate widespread social upheaval in Europe, and all are significant threats that would have very serious consequences. Yet they would also offer significant opportunities to make a clearer case for integration.

It is quite difficult to imagine the integration process accelerating—particularly in the defense sector—without a sea change in European politics. Although no sane person wishes for a cataclysm, they are nonetheless possible, and if one happens, accelerating integration is a response that should be considered and advanced. After all, the process of European integration received its initial impetus from a cataclysm: the Second World War.

Conversely, an integration process that takes place too rapidly, without a new and widespread balance of costs and benefits, can itself bring a shock, perhaps even resulting in the use of force by those who strongly oppose the pace of the process, or who reject it outright. The consequence of such a response would most likely be the disintegration of the entire process and its structures.

This is the most important point about this scenario. Of course there will be economic gains, and they will help secure European power in the world, but this was already clear from the discussion above. More integration will mean more compromises, but only integration (and only if it is done when the time is right) can permanently increase Europe's efficiency in providing for its own defense.

## Conclusions

Before World War II, France, Germany, and Great Britain were empires at about the same level of development. After World War II, however, they were in ruins and powerless; only the United States and the Soviet Union were world powers. With the support and incentives of the U.S. in the wake of the war, Europe embarked on an experiment of integration – one that began in the realm of economic cooperation, but that progressively evolved to political and strategic integration. Sixty years later, with Europe still enjoying the longest peace it has known (except for the Balkans, which are hardly central to the idea of Europe), the integration process is firmly entrenched on the level of *high politics*, with cooperation and integration finally taking place in the defense sector. Hesitations and long decision-making processes are rarely followed by retreats; the fall of the EDC in 1954 or France's electoral derailment of the Constitutional Treaty in 2004 were more rejections of specific courses or paces of integration,

rather than of the larger concept. The history of European integration shows the centrality of French politics in the process, more than the U.K.'s, whose opposition to supranational arrangements and preference for liberalism has been known since the Congress of Europe in 1948, and was probably the main reason for De Gaulle's vetoes.

Our frustration that even now, after sixty years of integration, fragmentation, duplication, and protectionism remain in the European defense sector should be contrasted with what has already been achieved among peoples whose conflicting traditions and cultures often resulted in bitter enmities that endured for centuries. Eurocorps, Euro-marfor, EDA, OCCAR, or the battle groups show genuine, albeit cautious, willingness of their participating member states to advance the integration of their defense sectors. From the point of view of implied loss of sovereignty, the enormity of a nation's decision to put its military forces and personnel under foreign command must not be underestimated.

It should be recognized that most attempts to speed the pace of the integration process in defense have been unsuccessful. On the other hand, intergovernmental cooperation—both inside and outside of the EU—has advanced greatly, implying that governments still prefer the more robust (and more legitimate) consensus approach in the realm of defense to majority voting, and do not yet want the ECom or the EP to decide on defense matters for them. If they change this position, the intergovernmental processes can always be brought into the EU, as was the case with the Schengen Agreement.

The European Union's economic power has not been matched by a commensurate level of influence as a global actor. Frequent disagreements on world affairs between EU member states and a shortage of hard-power capacity contrast with the EU's lofty declarations of its ambitions as a security actor.

The integration of the defense sector, which has mostly been carried out in the realm of *low politics*, is essential for the EU to improve the hard-power capabilities that it will need to be a credible actor in world affairs, which is a goal of *high politics*. Pooling resources for the research and development of new weapons systems, the harmonization of weapons requirements, common procurement procedures, and a transatlantic defense market should bring economies of scale and learning (more efficiency) and improve interoperability (more effectiveness). These increases in efficiency and effectiveness should allow the Europeans to have more and better arms, with the same overall outlay of (pooled) resources, thus increasing Europe's capabilities.

To have the power needed to be a credible actor on the geostrategic stage, though, the EU also needs the will to advance these integration steps and to use the capabilities that it develops. It appears that, at present, most Europeans are satisfied with their position in world affairs, and are neither particularly willing to intervene more in global conflict situations, nor to accept the consequences of a higher European profile in the world. Unless the balance of costs and benefits—as calculated by both governments and peoples of Europe—changes significantly, perhaps in reaction to an exogenous shock or a change of leadership, it does not seem likely that Europe will soon display the political will to push for a faster pace of integration in defense and the development of more meaningful capabilities in the area of hard power. In short, it appears that the

European defense sector will not experience much additional integration in the next five years, leaving a gap between Europe's political declarations and its influence—a disconnect between word and deed—in world affairs.

# The European Union and Developments in Crisis Management Operations and Peacekeeping

Ray Murphy \*

## Introduction

Thirty years ago, Henry Kissinger posed the question, “Whom do I call when I want to speak to Europe?” Now, the former U.S. Secretary of State is reported to have said: “I think one knows whom to call; I don’t think Europe has yet decided how to give answers to all the questions.”<sup>1</sup> Europe’s foreign policy is said to be fragmented and weak. A common defense and foreign policy still eludes the European Union (EU), and it is by no means clear that the deficiencies identified during the course of the crisis in the former Yugoslavia have been rectified.<sup>2</sup> Part of the problem today may also be that there are now too many candidates willing to answer for Europe. Richard Holbrooke, the former U.S. Ambassador to the UN and also to NATO, recalled the Bosnian peace conference at Dayton, Ohio, in 1995, which had three co-chairmen, one of whom was Karl Bildt, the then EU special representative.<sup>3</sup> But Germany, Britain, and France also sent envoys, and each indicated that Bildt did not speak for them.

Externally, the growing prominence of the European Union and its gradual assumption of some of the functions of the state had meant that its place in international relations has become more rather than less ambiguous over time.<sup>4</sup> Many of the formal legal agreements between the EU and the outside world are so-called “mixed” arrangements. Furthermore, most of its informal foreign policy also operates within a somewhat unclear and evolving framework of cooperation and competition with the foreign relations of its member states.<sup>5</sup> The overall situation has been complicated by the accession of new states to the EU.

Prior to the formation of the EU, European history was characterized by instability and armed conflict, and it was in the aftermath of one of Europe’s bloodiest wars that a number of individual member states came together to lay the foundation for today’s

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\* Dr. Ray Murphy is a Senior Lecturer in Law at the Irish Centre for Human Rights, National University of Ireland, Galway, Ireland. He lectures on peace support operations, international humanitarian law, and human rights.

<sup>1</sup> Dan Bilefsky and Brian Knowlton, “U.S. Reaches out to a Europe that Has Yet to Emerge,” *International Herald Tribune* (27 April 2007).

<sup>2</sup> The EU is composed of two communities that each has a legal entity: the Atomic Energy Community (EURATOM) and the European Community, the latter being the more important of the two. See Duncan E. Alford, “European Union Legal Materials: A Guide for the Infrequent Users,” *Law Library Journal* 97:1 (2005): 49–76. The Lisbon Treaty formally creates a single legal personality for the EU and was scheduled for adoption in 2008.

<sup>3</sup> Ibid.

<sup>4</sup> Neil Walker, “Europe at 50 – A Mid-life Crisis?”, Faculty of Law Annual Distinguished Lecture 2007 (Galway: National University of Ireland, 2007), 4.

<sup>5</sup> Ibid.

Union. At the heart of the European ideal was the aim of consolidating political and economic stability. It was thought that “tying countries together politically and economically [would be] ... a way to consolidate democracy and resolve traditional conflicts.”<sup>6</sup> Those countries that were most affected by the human, economic, and political consequences of World War I and World War II recognized that their future well-being was dependent on economic and political stability.

The formal process of European integration began in 1951 with the establishment of the European Coal and Steel Community (ECSC).<sup>7</sup> Although primarily economic in its focus, the ECSC was also aimed at facilitating political agreement between France and Germany. Six years later another treaty established the European Economic Community, which placed a greater emphasis on economic development but also sought to promote closer political union. Over the following forty-five years, an array of treaties covering many aspects of civil, social, economic, political, security, and defense issues have transformed this fledgling organization of six countries into one of twenty-seven states.<sup>8</sup> In the early years of the EU, economic and social issues overshadowed agreements in the areas of defense and security. This changed after the EU’s impotence was revealed when it was confronted with instability in the Balkans and the dissolution of the former Yugoslavia. A consequence of this was the placing of European security and military capabilities at the center of the EU agenda.

### *Pillar Structures*

The framework and infrastructure of the EU is currently based on two treaties—the Treaty Establishing the European Community and the Treaty on European Union, which is supported by three pillars<sup>9</sup>:

- *First Pillar*: the European Community (covering the policy areas encompassed by the EU). This contains the “old” European Community competencies, including areas such as the common market, agriculture, competition, and environment. It also includes EU trade policy with third countries, development, humanitarian assistance, and EU enlargement.
- *Second Pillar*: the Common Foreign and Security Policy (CFSP), including European Security and Defense Policy (ESDP). This succeeded the looser arrangement under what was known as European Political Cooperation.
- *Third Pillar*: police and judicial cooperation. This covers policing, asylum and immigration policy, and combating organized crime. It has little impact

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<sup>6</sup> Desmond Dinan, *Ever Closer Union: An Introduction to European Integration*, 3rd edition (New York: Palgrave Macmillan, 2005), 2.

<sup>7</sup> France, Germany, Italy, Belgium, the Netherlands, and Luxembourg signed the European Coal and Steel Community Treaty in 1951.

<sup>8</sup> Romania and Bulgaria became member states in 2007.

<sup>9</sup> Dinan, *Ever Closer Union*, 5. The original Rome Treaty (1957), amended by the Single European Act (1986), Treaty on European Union (Maastricht Treaty 1991), Amsterdam Treaty (1997), and the Nice Treaty (2001).

on CFSP. However, in the case of international police missions in places such as Kosovo and Bosnia, the EU can rely on existing cooperation procedures in this area.<sup>10</sup>

It is important at the outset to outline the role and function of the three main EU institutions: the European Council, representing the governments of the member states and headed by a rotating presidency; the European Commission; and the European Parliament. Each has different rights and competencies within each pillar. The first pillar is supranational in character, and is governed by well-established decision-making procedures. In many policy areas the Council decides by Qualified Majority Voting, and at times even by simple majority. The Commission, as the guardian of the treaties and main administrative body, makes proposals and implements decisions. The Second and Third Pillars are intergovernmental in nature, where the European Council acts as the sole legislator, usually on the basis of consensus. However, the Commission is allowed to table motions for political actions, and may be required to implement Council decisions. While civilian crisis management operations involve Pillar 1 (European Community) decision-making processes, EU military operations come under the umbrella of Pillar 2, thereby granting it an intergovernmental character. The Commission and European Parliament are informed of these decisions, but do not have legal power to influence the outcome.

It is noteworthy that the separation between the Second and Third Pillars means that the remit of the European Court of Justice is excluded from issues relating to CFSP policy. This ensures that there is no legal instrument that can oblige states to comply with CFSP provisions. In other words, there is still no legally enforceable binding obligation to act in concert that the European Court of Justice can enforce.<sup>11</sup> It also raises the question of how much control (if any) the European Parliament, and by extension the citizens of the Union, exerts in the adoption of CFSP measures. It appears that neither the Parliament nor any citizen can challenge this assertion, as it cannot be tested before the Court.<sup>12</sup> Its exclusion from the Third Pillar may have been a practical and prudent move, as it has been problematic enough to develop a credible crisis response policy without the additional background narrative of continuous legal challenges.

The challenges posed by the pillar structure makes some of the obstacles to providing coherent EU crisis management operations self-evident. Some key issues are the competence of the Commission and others on the Council (i.e., member states acting through the EU's Council structures). As external relations are deemed both intergov-

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<sup>10</sup> Ulrich Schneckener, *Developing and Applying EU Crisis Management: Test Case Macedonia*, Working Paper No. 14 (European Centre for Minority Issues, December 2002), 4–5.

<sup>11</sup> Trevor Salmon, "The European Security and Defence Policy: Built on Rocks or Sand?" *European Foreign Affairs Review* 10:3 (2005): 359.

<sup>12</sup> Daniel Thym, "Beyond Parliament's Reach? The Role of the European Parliament in the CFSP," *European Foreign Affairs Review* 11:1 (2006): 113; and Hans Born, *et al.*, *Parliamentary Oversight of ESDP Missions*, Policy Paper No. 28 (Geneva: Geneva Centre for the Democratic Control of Armed Forces, 2008).

ernmental and “community” activities, their management is split between the Commission and Council, with neither institution able to provide overall coordination and coherence.<sup>13</sup> In this way, although the EU can employ a range of pre- and post-crisis management instruments and capabilities, providing a coherent or integrated response to a crisis can be problematic.<sup>14</sup> The Constitutional Treaty for Europe would have nominally abolished the pillar structure and, according to its proponents, would have ushered in a new coherence to EU policies.<sup>15</sup>

### *The EU's Capacities as a Global Actor*

By virtue of its economic size, population, range of policies, and political influence, the EU has become a leading global actor. Traditionally the EU has been a “civilian power” concerned with welfare generation and economic regulation.<sup>16</sup> Unlike nation-states, it does not have a standing army, but rather has the ability to exert “soft power” by means of instruments such as economic support, trade concessions, regional developmental programs, and preferential loan arrangements through the European Investment Bank. Recent history has demonstrated that conflict prevention and peacekeeping tasks require the capability, capacity, and willingness to deploy military power when it becomes clear that economic and political methods are not achieving the desired results. The EU addresses this deficiency through the Second Pillar, a process that evolved very conservatively in the past but has acquired much more impetus in recent years, especially after the armed conflicts in the Balkans. A significant weakness exists in the EU institutional structures involved in crisis management operations.<sup>17</sup> EU military operations and the deployment of police and experts in the rule of law are institutionally and practically divorced from activities supported by the Commission in conflict prevention, crisis management, and post-crisis situations. The former operations come under Pillar 2, and are based on intergovernmental decisions within the context of ESDP.

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<sup>13</sup> International Crisis Group, *EU Crisis Response Capability Revisited*, Europe Report No. 160 (17 January 2005), 5.

<sup>14</sup> *Ibid.*, 404.

<sup>15</sup> This was abandoned after the Constitutional Treaty was defeated in referenda conducted during 2005 in France and the Netherlands. The Treaty was designed to repeal and replace by a single text all the existing treaties (with the exception of the Euratom Treaty), and consolidate fifty years of European treaties. Following the difficulties in ratifying the treaty in France and the Netherlands, the heads of state and government decided, at the European Council meeting on 16 and 17 June 2005, to launch a “period of reflection” on the future of Europe. At the European Council meeting on 21 and 22 June 2007, European leaders reached a compromise and agreed to convene an IGC to finalize and adopt not a Constitution, but a “reform treaty” for the European Union (Lisbon Treaty).

<sup>16</sup> Neil Winn, “CFSP, ESDP, and the Future of European Security: Whither NATO?” *The Brown Journal of World Affairs* 9:2 (2003): 149.

<sup>17</sup> Catriona Gourlay, “European Union Procedures and Resources for Crisis Management,” *International Peacekeeping* 11:3 (2004): 404–21.

The controversy surrounding the war in Iraq revealed divisions in the relationship between some member states of the EU, and critics have been quick to declare that this is clear evidence that there can never be a common foreign and security policy among such a disparate group of nations. The import of these disagreements can be overstated, as they are a feature of all working democracies. The EU, through its Common Foreign and Security Policy (CFSP), recognizes the need to develop a defense and security policy with a military capability, limited in capacity but with sufficient strength to intervene in trouble spots, especially those that are close to home.<sup>18</sup> A credible foreign policy must satisfy a few conditions: it must have strong and unequivocal political leadership, it must possess a robust operational military capacity, and it must possess the support of public opinion.<sup>19</sup> The ability and determination to meet these three requirements is the most serious challenge that faces the EU in the development of a cohesive and resolute foreign and security policy; to date, progress has been inconsistent and slow. A lack of a united approach among political leaders—who continue to place their individual national interests above those of the EU as a whole—has not encouraged the citizens of the Union to become enthused or fully supportive of this project. Despite this political inertia and lack of engagement (except at times of crisis), the development of military capacities—including plans to deploy Rapid Reaction Forces and battle groups backed by institutional arrangements—have made some significant advances. Indeed, the EU has successfully conducted a number of military, police, and rule-of-law missions to date.

At the time of writing, the EU is undertaking a wide range of civilian and military missions with tasks ranging from peacekeeping and monitoring implementation of a peace process to providing advice and assistance in military, police, border monitoring, and rule-of-law sectors.<sup>20</sup> There is a perception that the EU lacks the capability to deploy and support strong and competent military forces. This belief underestimates the forces and resources that are available when taken in their totality.<sup>21</sup> Nevertheless, the gap in military capacities between the U.S. and EU remains significant.<sup>22</sup> A critical shortfall lies in the lack of strategic lift capacity, which impedes the EU's ability to rapidly deploy forces outside of the European continent.<sup>23</sup> European governments are reluctant to increase expenditures on defense to make up this shortfall when compared

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<sup>18</sup> Dinan, *Ever Closer Union*, 560.

<sup>19</sup> Winn, "CFSP, ESDP, and the Future of European Security," 151.

<sup>20</sup> The Council of the EU, *ESPD Newsletter*, No. 6 (July 2008); details on ESDP at [www.consilium.europa.eu/cms3\\_fo/showPage.asp?id=261&lang=en](http://www.consilium.europa.eu/cms3_fo/showPage.asp?id=261&lang=en).

<sup>21</sup> Ståle Ulriksen, "Requirements for Future European Military Strategies and Force Structures," *International Peacekeeping* 11:3 (2004): 457.

<sup>22</sup> Salmon, "The European Security and Defence Policy: Built on Rocks or Sand?," 373.

<sup>23</sup> "Strategic lift" is a military term meaning the ability to transport troops and equipment over large distances.



to their U.S. counterparts.<sup>24</sup> An EU without a credible military element to ESDP, in support of the CFSP, lacks the full range of capabilities for an operational security and defense policy.<sup>25</sup>

This article addresses the developments involved in the construction of the Second Pillar and the creation of a framework for the European Security and Defense Policy (ESDP). It was natural that, in the aftermath of the break-up of the Soviet Union and the Warsaw Pact, the end of the Cold War, and the unification of Germany, the need to create formal EU defense arrangements would come into question. The EU continues to face a number of challenges associated with increased membership and globalization. One of these challenges is to provide a political union to complement its achievements in the economic sphere. The CFSP and its subset, the ESDP, represent the most tangible and visible aspects of this political ambition.<sup>26</sup> The ESDP, however, remains dependent on the major powers within the EU, especially France, the United Kingdom, and to a lesser extent Germany. The article examines the tools available under the Second Pillar of the EU, including the publication of a European Security Strategy supported by an attendant institutional infrastructure, to the deployment of Rapid Reaction Forces for large-scale military operations, and the introduction of battle groups that can be moved to respond to crisis situations at very short notice. Recent and ongoing EU operations are also reviewed in this context. Representatives from the EU have often said that the EU and the UN are natural partners in multilateralism.<sup>27</sup> This reflects the growing desire of the EU and its member states to establish the EU as a global actor.<sup>28</sup> It is against this background that the EU and the UN have increased their cooperation in peacekeeping and crisis management operations.

## Evolution of the European Security and Defense Policy

### *Early Developments in the Creation of a European Defense Policy*

In 1969, EU leaders established a procedure known as European Political Cooperation

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<sup>24</sup> Stanley R. Sloan, *NATO, The European Union, and The Atlantic Community, The Transatlantic Bargain Challenged*, 2nd edition (New York, NY: Rowan & Littlefield, 2005), 198.

<sup>25</sup> Alistair J.K. Shepherd, "The European Union's Security and Defence Policy: A Policy without Substance?" *European Security* 12:1 (2003): 40.

<sup>26</sup> Roland Dannreuther, ed., *European Union Foreign and Security Policy, Towards a Neighbourhood Strategy. Setting the Framework* (New York: Routledge, 2005), 2.

<sup>27</sup> Jan Wouters, Frank Hoffmeister, and Tom Ruys, "Introduction," in *The United Nations and the European Union: An Even Stronger Partnership* (The Hague: TMC Asser Press, 2006), 1.

<sup>28</sup> This is especially evident from two key documents of 2003, the European Security Strategy (discussed below) and a Commission communication to the UN titled "The European Union and the United Nations – The Choice of Multilateralism," COM (2003) 526 (10 September 2003.)

whereby member states were called on to cooperate on foreign policy.<sup>29</sup> Further developments took place in the following years, including meetings at the head of state and foreign minister levels, along with the establishment of institutional mechanisms, such as a Political Committee and working groups to follow up on summit meetings and deal with foreign policy issues as they arose. During this period a swift and secure communications system was set up between national foreign ministries and Brussels exclusively for the conduct of European Political Cooperation business.<sup>30</sup> This may not appear at first glance to have been a remarkable event, but its significance is noteworthy for three reasons:

- It created a means of immediate direct communication to respond to emergencies
- It indicated a willingness by states to transmit information to one another regarding sensitive political issues
- It recognized the need for a secure communications system that was outside of military and security services control.

### *Treaty of European Union 1991* <sup>31</sup>

There were a number of initiatives undertaken in the early 1980s to enhance European Political Cooperation and broaden its remit to encompass security and defense issues, but differences among member states meant that these efforts failed to yield any tangible results.<sup>32</sup> A number of NATO and European Economic Community (the EU not yet having been established) states considered that defense issues should remain a NATO concern, and that no infringement on the security relationship with the U.S. could be considered.

The Treaty of European Union was significant, as it transformed the system of European Political Cooperation into the CFSP. This evolved to become the second intergovernmental pillar of the EU. The Treaty sets out its objective in the following terms: “to assert its identity on the international scene, in particular through the implementation of a common foreign and security policy including the eventual framing of a common defence policy, which might in time lead to a common defence.”<sup>33</sup> The framers of the Treaty had the unenviable task of trying to reconcile the numerous and di-

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<sup>29</sup> Discussions on defense issues took place in tandem with those on the Coal and Steel Treaty leading to the signing of a European Defense Community (EDC) Treaty by all six founding member states in May 1952. Subsequently, differences relating mainly to fears arising from proposals to develop a political community (with the attendant implications of federalism) brought an end to the EDC, and by 1954 it was consigned to the status of a “stillborn sibling” of the nascent European community. Dinan, *Ever Closer Union*, 28.

<sup>30</sup> Called “COREU,” for *COR*respondence *EU*ropéene.

<sup>31</sup> TEU (Maastricht Treaty), signed 7 February 1992, entered into force 1 November 1993. See *Official Journal of the European Communities* 191 (29 July 1992).

<sup>32</sup> Dinan, *Ever Closer Union*, 583.

<sup>33</sup> TEU Treaty Title 1, Article B; available at <http://europa.eu.int/en/record/mt/title1.html>.

vergent views of the member states. This is reflected in the constructive ambiguity of the language they adopted, which is aspirational and lacking in specificity and legal intent. The provisions establishing the CFSP are contained in a series of articles, the first of which sets out the objectives in a more comprehensive form<sup>34</sup>:

- To safeguard the common values, fundamental interests, and independence of the Union
- To strengthen the security of the Union and its member states in all ways
- To preserve peace and strengthen international security, in accordance with the principles of the United Nations Charter as well as the principles of the Helsinki Act and the objectives of the Paris Charter<sup>35</sup>
- To develop and consolidate democracy and the rule of law, and respect for human rights and fundamental freedoms.

The reference to strengthening the security of the Union and that of the member states was sufficiently ambiguous to be acceptable to all states, including “neutrals” like Ireland, which were reluctant to embark on a policy that might have been seen to compromise its espoused policy of military neutrality.

#### *The Amsterdam Treaty of 1997*<sup>36</sup>

The Amsterdam Treaty introduced, among other things, a number of institutional and procedural changes to address weaknesses identified in the EU CFSP. The Treaty was concluded at a time when the crisis in the former Yugoslavia was still not resolved. Despite the deficiencies apparent in the EU’s response to the crisis, issues pertaining to national sovereignty in the field of foreign policy proved a major stumbling block to achieving a coherent agreed structure and policy. The end result was a complicated system for decision making that required unanimity, but allowed for exceptions where qualified majority voting was acceptable as long as member states could declare that they were not bound by such a decision. Dinan’s comment that “these reformed decision making procedures were more complicated than the original ones without necessarily being an improvement on them” aptly summarized the changes made to CFSP procedures.<sup>37</sup>

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<sup>34</sup> Ibid., Title V, Article J.1.

<sup>35</sup> The Conference on Security and Cooperation in Europe (CSCE) was established by the Final Helsinki Act in 1975. In 1994, it was renamed the Organization for Security and Cooperation in Europe (OSCE). The Paris Charter was adopted by a meeting of member states of the CSCE in 1990.

<sup>36</sup> Agreed by EU leaders on 17 June 1997 and signed on 2 October 1997. Entered into force on 1 May 1999. See *Official Journal of the European Communities* 340 (10 November 1997).

<sup>37</sup> Dinan, *Ever Closer Union*, 594.

The Amsterdam Treaty reiterated, with some very minor adjustments, the objectives set out in the Treaty on European Union, but reinforced these by outlining three key instruments for their implementation<sup>38</sup>:

- Principles and general guidelines as defined by the European Council
- Common strategies as decided by the European Council, to include duration of joint actions and the means and resources to be made available
- Joint actions and common positions as recommended by the Council.<sup>39</sup>

Member states also agreed to the creation of the position of a High Representative for CFSP, who would also be the Secretary-General for the Council.<sup>40</sup> This is an important appointment made by the EU Council, and as such largely evades parliamentary scrutiny.<sup>41</sup> This helped address the recurring problem of who was authorized to speak on behalf of the EU.

### *Crisis in Yugoslavia and the Launch of the European Security and Defense Policy (ESDP)*

The EU relied on economic power and financial sanctions in its attempts to bring a halt to hostilities in the former Yugoslavia in the 1990s.<sup>42</sup> The EU did not have the capacity to respond militarily, and for this reason it was forced to acknowledge that its efforts to implement a negotiated settlement lacked credibility. Individual EU countries did supply troops to the largely ineffective United Nations Protection Force (UNPROFOR) mission, but there was no coordinated response from the Union. In fact, the response from the EU was characterized by a unilateralist approach from member states rather than the multilateralism on which the Union was supposedly based.<sup>43</sup> The deployment of the NATO-led Implementation Force (IFOR) and later Stabilization Force (SFOR) missions that replaced UNPROFOR again included EU countries, but the composition of these two forces was dominated by the United States. The lack of any military capability demonstrated the apparent impotence of the EU to resolve crises in its own backyard, not to mention the wider world, and served to reinforce its dependence on NATO and the transatlantic link. Chris Patten, the former EU Commissioner for External Relations, summarized Europe's shameful response to the crisis as follows:

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<sup>38</sup> Amsterdam Treaty, Title V, Articles J.3, J.4, J.5, and J.6; available at <http://europa.eu.int/eur-lex/lex/en/treaties/dat/11997D/htm/1199D.html>.

<sup>39</sup> *Ibid.*, Article J.4.1.

<sup>40</sup> *Ibid.*, Article J.8.3. Mr. Javier Solana, a former minister in the Spanish government and Secretary-General of NATO and the WEU, was appointed as the first what is commonly referred to as the HRSG in 1999; his tenure was extended for a second five-year term in 2004.

<sup>41</sup> Thym, "Beyond Parliament's Reach? The Role of the European Parliament in the CFSP," 118.

<sup>42</sup> Adrian Treacher, "From Civilian Power to Military Actor: The EU's Resistible Transformation," *European Foreign Affairs Review* 9 (2004): 56.

<sup>43</sup> *Ibid.*, 56.

The people of Western Balkans are our fellow Europeans. We cannot wash our hands of them. Let us remember the consequences of our refusal to get involved. The shattered ruins of Vukovar. The ghastly siege of Sarajevo. The charnel house of Srebrenica. The smoking villages of Kosovo. The European Union did not commit these crimes. But 200,000 or more fellow Europeans died in Bosnia and Herzegovina alone. As Europeans we cannot avoid a heavy share of responsibility for what happened.<sup>44</sup>

The conflicts in the Balkans showed that the CFSP could only be credible if it was backed up by the capacity to employ military power.<sup>45</sup> The European Council meeting in Cologne in 1999 addressed this deficiency by launching the ESDP, thereby giving the EU access to military structures and forces, although their deployment was limited in scope to the so-called “Petersberg Tasks”<sup>46</sup> – i.e., humanitarian and rescue missions; peacekeeping efforts; and tasks of combat forces in crisis management, including peacemaking.<sup>47</sup>

### *The North Atlantic Treaty Organization (NATO) and the Western European Union (WEU)*

*Brussels and Washington Treaties.* In the aftermath of World War II, tensions continued to exist between Germany and its former adversaries, some of whom remained concerned about the possibility of renewed conflict. The United Kingdom and other countries that had been subject to German aggression wished to retain a more formal alliance structure. They also had to address the new threat from a Soviet Union that occupied much of Eastern Europe, including East Germany. Germany—the country with the largest population in Europe and with commensurate industrial and military capacities—would have to be integrated into any new European security arrangements. The Western European Union (WEU) was created by the Brussels Treaty on Eco-

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<sup>44</sup> Christopher Patten, “The Western Balkans: The Road to Europe,” speech to the European Affairs Committee in Berlin (28 April 2004); available at [www.eur.eu.int/agency/main/agency-a1a2g3.htm](http://www.eur.eu.int/agency/main/agency-a1a2g3.htm).

<sup>45</sup> Burkard Schmitt, “European Capabilities: How Many Divisions?” in *EU Security and Defence Policy: The First Five Years (1999-2004)* (Paris: EU Institute for Security Studies, 2004), 89.

<sup>46</sup> The tasks refer to those agreed in the 1995 Declaration of the Western European Union at Petersberg, Germany, which were incorporated into Title V of the Treaty of European Union.

<sup>47</sup> The CFSP was revised in some important respects in the Amsterdam Treaty (1997) and the later Treaty of Nice (2003). The main features of CFSP are outlined in Article 17.1 and 17.2 of the Treaty on European Union and read in the amended version as follows:

1. The common foreign and security policy shall include all questions relating to the security of the Union, including the progressive framing of a common defense policy, which might lead to a common defense, should the European Council so decide. ...
2. Questions referred to in this Article shall include humanitarian and rescue tasks, peacekeeping tasks and tasks of combat forces in crisis management, including peacemaking.

conomic, Social, and Cultural Collaboration and Collective Self-Defense in 1948.<sup>48</sup> The driving force behind this was the U.S. reluctance to become involved in European security at that time. The main feature of the Treaty was the commitment to mutual defense in the event of an armed attack on any of the member states. This demonstration of the determination and cooperation among signatory states to work together facilitated talks with the U.S. and Canada that led to the Washington Treaty of 1949 and the establishment of NATO. The following year, WEU members decided to merge their military organization into NATO, thereby recognizing its pre-eminent role in preserving the security of Europe and the North Atlantic littoral.<sup>49</sup>

The collapse of the Warsaw Pact in 1990 meant that NATO was left without its primary purpose—protecting Western Europe from Communist aggression from the East—and it had the option of either seeking new tasks or facing possible dissolution. The confluence of the ending of the Cold War and the outbreak of armed conflict in Yugoslavia offered a timely opportunity for NATO to reinvent itself as a guarantor of stability in Europe. Within the EU itself, the debate on how to address security and defense issues centered on two opposing points of view. The so-called “Atlanticists,” led by the United Kingdom, opposed the development of an EU military capability. They preferred to retain the predominance of NATO, with its guarantee of collective defense, and believed that the EU was incapable of providing the military capacity to match this provision. The “Europeanists,” on the other hand, favored providing the EU with a distinct military arm, but in the early stages their proposals lacked clarity and realism. The “Atlanticist” view prevailed and, at the NATO Council meeting in Berlin in June 1996, it was agreed to allow the WEU to use the Combined Joint Task Forces (CJTF) mechanism that had been developed by NATO in military situations that would not involve the U.S.<sup>50</sup>

*Saint Malo Declaration.* A dramatic change of policy occurred in 1998, when the British and French governments declared that “the Union must have some capacity for autonomous action, backed up by credible military forces, the means to decide to use them and a readiness to do so, in order to respond to international crisis.”<sup>51</sup> In a surprising development, the EU had been given the tools to become an effective military actor. The momentum created at Saint Malo meant that movement towards a real-

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<sup>48</sup> Signed in March 1948 by Belgium, France, Luxembourg, the Netherlands, and the United Kingdom, as amended by the Protocol signed in Paris in 1954. A history of the WEU is available at [www.weu.int/History.htm](http://www.weu.int/History.htm).

<sup>49</sup> The difficulty of integrating the Federal Republic of Germany into the emerging security structures was resolved by allowing both Italy and Germany to join the Brussels Treaty in September 1954. These arrangements were formalized by the Paris Protocols of 1954 that created the WEU as a new international organization.

<sup>50</sup> A Combined Joint Task Force mission is one in which resources are shared in accordance with the needs of a particular task and composed of those countries willing to participate.

<sup>51</sup> Joint statement by the French and British Governments, Franco-British Summit, Saint Malo, France, 4 December 1998.

istic security policy was inexorable.<sup>52</sup> However, the focus at Saint Malo was on the provision of military capabilities, rather than on providing rationales for their use, as the latter had already been set forth in the Petersberg Tasks.<sup>53</sup> A route had been opened to allow the CFSP to develop a path to the creation of a credible ESDP supported by appropriate military instruments and resources. The reluctance of the U.S. to commit ground forces in the war in Kosovo served to reinforce the necessity for the EU to have the capacity to respond to such a crisis in accordance with the principles set out in the Saint Malo Declaration.

At the Cologne European Council meeting in June 1999, the member states agreed that the EU should be given the means and capabilities to carry out its tasks with regard to security and defense matters.<sup>54</sup> However, the extent of the ESDP was limited to the undertaking only of the Petersberg Tasks – a restriction that seemed to confirm the dominance of the “Atlantacists,” who were determined that NATO should remain the cornerstone of the collective defense of its members. Subsequently, the WEU was wound up in June 2001 and its responsibilities were transferred to the EU.<sup>55</sup>

*Helsinki Headline Goal (1999) and the Creation of New Bodies to Coordinate the ESDP (2000).* The fallout from the crisis in Kosovo precipitated consequences within both the UN and the EU. A further significant development occurred at the European Council meeting in Helsinki in December 1999, when it was decided that the EU should be able to act autonomously in situations where NATO as a whole was not prepared to do so. The EU should be given the tools and capabilities to undertake military operations in response to international crisis situations. With respect to this force’s military capabilities, the Council declared that:

A common European headline goal will be adopted for readily deployable military capabilities and collective capability goals in the fields of command and control, intelligence and strategic transport will be developed rapidly, to be achieved through voluntary coordinated national and multi-national efforts, for carrying out the full range of Petersberg Tasks.<sup>56</sup>

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<sup>52</sup> Winn, “CFSP, ESDP, and the Future of European Security,” 158.

<sup>53</sup> Andrea Ellner, “The European Security Strategy: Multilateral Security with Teeth?” *Defence and Security Analysis* 21 (2005): 226.

<sup>54</sup> Schmitt, “European Capabilities: How Many Divisions?”, 90.

<sup>55</sup> The Treaty of Nice (2003) transferred the main institutions and competences of the WEU to the EU, and made the ESDP the military instrument of the CFSP. Richard Youngs, “The European Security and Defence Policy: What Impact on the EU’s Approach to Security Challenges?” *European Security* 11:2 (2002): 101.

<sup>56</sup> *Presidency Progress Report to the Helsinki European Council on Strengthening the Common European Policy on Security and Defence*, Annex I to IV; available at [http://europa.eu.int/council/off/conclu/dec99/dec/99\\_en.htm](http://europa.eu.int/council/off/conclu/dec99/dec/99_en.htm).

This led to the establishment of the Helsinki Headline Goal (HHG), where the member states set objectives for military capabilities in accordance with the Petersberg Tasks for the period 1999 to 2003.<sup>57</sup>

The Headline Goals have been characterized as “essentially a plan for acquiring military capability for power projection.”<sup>58</sup> The EU was not proposing to establish its own standing army. Lacking any form of institutional military organization, the EU requested member states to indicate the numbers and types of forces they were prepared to commit. These were then listed in what has become known as the Helsinki Force Catalogue, which sets out the contributions available from the various countries. However, this catalogue did not guarantee that member states would provide the forces listed, as they could take into account their availability and operational readiness at the time of any request.<sup>59</sup>

In order to coordinate these ESDP efforts, three new bodies were established in 2000.<sup>60</sup> The most important of these was the Political and Security Committee, which monitors the international situation, exercises political control, and provides strategic direction to crisis management operations. It is a key strategic actor and central preparatory body, made up of national representatives at the ambassadorial level permanently based in Brussels. It has been described as an unusually cohesive committee with a club-like atmosphere, a high level of personal trust, and driven by a common commitment to pioneer cooperation.<sup>61</sup> The EU Military Committee consists of military chiefs from member states, and is responsible for giving military advice, developing an overall concept of crisis management operations, and conducting military relations. There is also an EU Military Staff, which provides early warning and strategic planning with respect to the Petersberg Tasks and implements the decisions of the Military Committee. The EU recognized that the fulfillment of the Petersberg Tasks required civil crisis management capabilities, and four priority areas were identified in 2000: ci-

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<sup>57</sup> Ibid. The Goal was defined as follows: “Member states have set themselves the headline goal: by the year 2003, cooperating together voluntarily, they will be able to deploy rapidly and then sustain forces capable of the full range of Petersberg Tasks ... in operations up to Corps level (up to 15 brigades or 50,000 to 60,000 persons). These forces should be militarily self-sustaining ... for at least one year.”

<sup>58</sup> Giovanna Bono, “The EU’s Military Doctrine: An Assessment,” *International Peacekeeping* 11:3 (2004): 444.

<sup>59</sup> Gerrard Quille, “Implementing the Defence Aspects of the European Security Strategy: The Headline Goal 2010,” *European Security Review* 23 (2004): 5; available at [www.isis-europe.org](http://www.isis-europe.org).

<sup>60</sup> Provisionally established by Council Decisions of 14 February 2000, *Official Journal*, L-49/1 (22 February 2000); permanently established by Council Decisions of 22 January 2001, *Official Journal*, L-27/1 (30 January 2001).

<sup>61</sup> See Christoph O. Meyer, *The Quest for a European Strategic Culture: Changing Norms on Security and Defense in the European Union* (New York, NY: Palgrave Macmillan 2007); and Tom Ruys, *Background Paper on EU Crisis Management Operations*, Working Paper No. 108 (Leuven: Institute of International Law, Katholieke Universiteit Leuven, May 2007).



vilian policing, rule of law, strengthening civil administrations, and ensuring protection of civilian populations.<sup>62</sup>

*Berlin Plus Arrangements (2002)*. Both the EU and NATO recognized the need for closer coordination to avoid duplication in the use of resources and capabilities. Achieving agreement in this area was delayed by Turkey, owing to fears that the ESDP could be used against Turkish interests.<sup>63</sup> After prolonged discussions it was agreed in December 2002 that the EU would be assured of access to NATO military assets and operational planning capabilities for the conduct of EU-led military operations.<sup>64</sup> The four main elements of the so-called “Berlin Plus” arrangements are:

- Assured access to NATO planning resources
- Presumption of the availability of pre-identified NATO common assets and capabilities
- European command options, including the role of the NATO Deputy Supreme Allied Commander Allied Forces Europe (DSACEUR)
- A NATO-EU security information agreement, allowing for the exchange of classified information between the two organizations.<sup>65</sup>

While the Berlin Plus arrangements did strengthen the Union’s arsenal of crisis management tools, success depended on the relationship between the U.S. and the EU (and particularly on the role of the United Kingdom in bringing the two together).<sup>66</sup>

Despite such developments, the results were tempered by a number of shortfalls. Although these have been acknowledged, it is difficult to determine what goals have actually been achieved.<sup>67</sup> Most member states’ military expenditures are traditionally spent on personnel and infrastructure, rather than on new equipment or research. This may well be a good thing for the EU as a whole, but the practical consequences of such spending patterns for the conduct of military operations at the strategic and operational level should not be underestimated. The establishment of the battle groups (discussed below) and the European Defense Agency were intended to remedy this. The delays in

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<sup>62</sup> See Jan Wouters and Tom Ruys, “UN-EU Cooperation in Crisis Management,” in *The United Nations and the European Union: An Even Stronger Partnership*, ed. Jan Wouters, Frank Hoffmeister, and Tom Ruys (The Hague: TMC Asser Press, 2006), 229–65; quoted at 235.

<sup>63</sup> See generally Özlem Terzi, “New Capabilities, Old Relationships: Emergent ESDP and EU-Turkish Relations,” *Southeast European Politics* 3 (2002): 43.

<sup>64</sup> Catriona Gourlay, “European Union Procedures and Resources for Crisis Management,” *International Peacekeeping* 11:3 (2004): 410.

<sup>65</sup> *Idem*. The agreement was formally concluded by an exchange of letters on 17 March 2003; two weeks later, the EU launched its first ESDP military mission, Operation Concordia, in the Former Yugoslav Republic of Macedonia.

<sup>66</sup> Catriona Mace, “Operation Concordia: Developing a ‘European’ Approach to Crisis Management,” *International Peacekeeping* 11:3 (2004): 47.

<sup>67</sup> Wouters and Ruys, “UN-EU Cooperation in Crisis Management,” 237.

launching the EU-led force for Chad in 2007–08 called into question the success of these arrangements.

## The European Security Strategy

### *New Doctrines and Strategy*

While the early period of the ESDP's life was reactive and event-driven, it was only a matter of time before the need arose for a strategic policy in relation to EU capacity and capabilities.<sup>68</sup> In 2003, the European Council formally adopted *A Secure Europe in a Better World* as the European Security Strategy (ESS), and in so doing took on the mantra of "effective multilateralism."<sup>69</sup> The UN and EU also concluded a Joint Declaration on EU-UN cooperation in crisis management, covering civilian and military operations.<sup>70</sup> Although the ESS document essentially codified existing practice, it is critical to understanding the circumstances in which EU forces can be deployed, and is considered to be "the sorely missed common political platform needed to develop the EU military strategy, doctrine, and force structure concepts."<sup>71</sup> It was the first major attempt to provide a guiding framework for the EU's international role in the security arena. It outlines the multilateral approach adopted by the EU to international crises and its determination to abide by principles embodied in international law and the UN Charter.<sup>72</sup>

The European Security Strategy reflected an important statement of support for the UN in the post-9/11 climate, at a time that can only be described as a low point for the CFSP.<sup>73</sup> It is also clear from the ESS that the EU, and not the UN, must set the agenda. Europe must meet contemporary challenges through the application of the full spectrum of instruments for crisis management and conflict prevention at its disposal, in-

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<sup>68</sup> For helpful background on the European Security Strategy, see *A Secure Europe in a Better World – European Security Strategy (ESS)* (Brussels: European Council, 12 December 2003); available at [www.consilium.europa.eu/uedocs/cms.Upload/78367.pdf](http://www.consilium.europa.eu/uedocs/cms.Upload/78367.pdf).

<sup>69</sup> Jan Wouters, *The United Nations and the European Union: Partners in Multilateralism*, Working Paper No. 1 (Leuven: Leuven Centre for Global Governance Studies, May 2007), 2.

<sup>70</sup> Joint Declaration on UN-EU Cooperation in Crisis Management, New York, 24 September 2003. This led to the establishment of the EU-UN Crisis Management Steering Committee.

<sup>71</sup> Ulriksen, "Requirements for Future European Military Strategies and Force Structures," 458.

<sup>72</sup> The document declares that the EU is committed to upholding and developing international law and the UN Charter: "The fundamental framework for international relations is the United Nations Charter. The United Nations Security Council has the primary responsibility for the maintenance of international peace and security. Strengthening the United Nations, equipping it to fulfill its responsibilities and to act effectively is a European priority." *European Security Strategy*, 9.

<sup>73</sup> Sven Biscop and Edith Drieskens, "The European Security Strategy: Confirming the Choice for Collective and Comprehensive Security," in *The United Nations and the European Union: An Even Stronger Partnership*, ed. Jan Wouters, Frank Hoffmeister, and Tom Ruys (The Hague: TMC Asser Press, 2006), 267.

cluding political, diplomatic, military and civilian, trade, and development activities.<sup>74</sup> This is a more comprehensive approach to addressing security concerns based on principles of preventive strategy that goes significantly beyond the traditional “military threat assessment.”<sup>75</sup> In this it differs from the National Security Strategy of the United States, which is unilateralist in approach and emphasizes the right of the U.S. to act unilaterally, under the concept of pre-emptive action.<sup>76</sup> The United States’ approach to the UN is reflected in the manner in which it is placed together with a number of other organizations and given a rather lukewarm expression of U.S. “commitment to lasting institutions like the United Nations, the World Trade Organization, the Organization of American States and NATO as well as other long-standing alliances.”<sup>77</sup>

A comparison between the European Security Strategy and the U.S. National Security Strategy highlights the strategic divergence between them.<sup>78</sup> Although the U.S. strategy devotes more space to democracy, human rights, and trade, these are placed within the overall framework of the “Global War on Terror.” It puts great emphasis on the use of military instruments, including acting pre-emptively, before threats are fully formed. The European Security Strategy, on the other hand, advocates a holistic approach that seeks to integrate all instruments into a structural policy of prevention and stabilization, operating through partnership and rule-based multilateralism. It is also consistent with the approach outlined in the UN’s *Report on the High Level Panel on Threats, Challenges and Change*, and the UN Secretary-General’s report titled *In Larger Freedom*.<sup>79</sup>

Despite these differences in approach with the U.S. (which were exacerbated in the case of several member states by the war in Iraq), the European Security Strategy stresses the continued importance of the transatlantic link.<sup>80</sup> It does, however, make it clear that the EU sees this relationship as requiring balance and effectiveness. In this regard, the EU must increase its capabilities and coherence so as to be able to act

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<sup>74</sup> It identifies the five key threats to European security: terrorism, proliferation of weapons of mass destruction, regional conflicts, state failure, and organized crime. *European Security Strategy*, 5–6, and 11.

<sup>75</sup> Gerrard Quille, “The European Security Strategy: A Framework for EU Security Interests,” *International Peacekeeping* 11:3 (2004): 424.

<sup>76</sup> *U.S. National Security Strategy* (USNSS), launched by President George W. Bush in September 2002; available at [www.whitehouse.gov/nsc/nss.pdf](http://www.whitehouse.gov/nsc/nss.pdf). See Quille, “The European Security Strategy: A Framework for EU Security Interests,” 423.

<sup>77</sup> USNSS, 5.

<sup>78</sup> Sven Biscop, “For a ‘More Active’ EU in the Middle East,” Egmont Paper No. 13 (Brussels: Royal Institute of International Relations, 2007), 21.

<sup>79</sup> United Nations, *A More Secure World: Our Shared Responsibility. Report of the High-level Panel on Threats, Challenges and Change*, UN Doc. A/59/565, 2 December 2004; Secretary-General of the United Nations, *In Larger Freedom: Towards Development, Security and Human Rights for All*, UN Doc. A/59/2005 (21 March 2005). It was also supported by the heads of state and government at the 2005 World Summit Outcome, GA Res. A/RES/60/1 (24 October 2005).

<sup>80</sup> *European Security Strategy*, 13.

autonomously. The impetus to draft the European Security Strategy had its origins in the aftermath of the Balkan conflict, when EU accession became the carrot to be offered to aspirant countries that proved themselves to be peaceful and capable of abiding by democratic principles. This policy was shown to be effective with EU candidate states, but it is less clear what leverage it provided with those states that were not seeking membership.<sup>81</sup> It also offered a framework for future approaches to regional and global security.<sup>82</sup> The decision to push forward with a sense of urgency in formulating an EU security strategy may have originated in the U.S. decision to go to war in Iraq, rather than growing out of a considered debate on the need for a firmer policy platform.<sup>83</sup> Not only did the Iraq crisis place the U.S. at odds with a number of its European NATO allies, but there was also a serious lack of unanimity regarding the war among EU member states. In this way, the European Security Strategy was driven not by calls for reform within the EU, but by outside influence in the shape of U.S. unilateral action.<sup>84</sup> It has been argued that differences over Iraq were the most critical feature in bringing about acceptance of the European Security Strategy by the member states. Indeed, as one scholar has written, “without the lessons of Iraq and the resultant necessity to respond to shifts in the U.S. international behavior and strategic outlook, the first European strategy document might well not have been adopted.”<sup>85</sup>

### *Building a Secure Neighborhood*

The European Security Strategy addresses the critical issue of security outside of Europe by means of a policy described as “Building Security in our Neighborhood,” which emphasizes the importance of having “well-governed” countries within Europe’s neighborhood, including the Middle East.<sup>86</sup> Enlargement has been the main foreign policy instrument used by the EU to guarantee the stabilization of its eastern flank by bringing about significant economic opportunities for new member states. However, nationalist movements in states formerly under the control of the USSR still pose a threat to European peace and security. The issue of independence for Kosovo, which is vigorously opposed by nationalist elements within Serbia, has the potential to destabilize the region.<sup>87</sup>

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<sup>81</sup> Asle Toje, “The 2003 European Union Security Strategy: A Critical Appraisal,” *European Foreign Affairs Review* 10:1 (2005): 129.

<sup>82</sup> Ellner, “The European Security Strategy: Multilateral Security with Teeth?,” 223.

<sup>83</sup> Toje, “The 2003 European Union Security Strategy: A Critical Appraisal,” 117.

<sup>84</sup> *Ibid.*, 120.

<sup>85</sup> Jirí Šedivý, *One Year On: Lessons from Iraq*, Chaillot Paper No. 68 (Paris: Institute for Security Studies, March 2004), 107.

<sup>86</sup> Ulriksen, “Requirements for Future European Military Strategies and Force Structures,” 461.

<sup>87</sup> See Executive Summary and Recommendations in International Crisis Group, “Kosovo: No Good Alternatives to the Ahtisaari Plan,” *Europe Report* No. 182 (14 May 2007); International Crisis Group Media Brief, “Serbia’s New Government: Turning from Europe,” Belgrade/Brussels (31 May 2007); and Megan Harris, “Kosovo’s Uncertain Outlook,” *United Press International* (11 June 2007).

“Enlargement fatigue” is slowing the process of application and accession for those states that wish to join the Union, and it has yet to be seen how the European Security Strategy will help consolidate and focus the security gains from enlargement (stability and integration) and provide the momentum to extend that security to neighboring states.<sup>88</sup> The strategy acknowledges that large-scale aggression against any EU member state is now unlikely. Instead there are new threats that are more diverse and difficult to predict, including global terrorism (which is now linked to religious extremism), proliferation of weapons of mass destruction, regional conflicts, state failure (bad governance), and organized crime. The strategy acknowledges that the EU “needs to develop a strategic culture that fosters early, rapid and when necessary, robust intervention,” but any EU military operation should only be carried out in accordance with CFSP objectives, which are based on the aspirations of the Union in world affairs as set out in the strategy document.<sup>89</sup> The basis for consultations with major partners on strategic issues throughout the world is based on the principles set out in the strategy document.

One of the greatest challenges facing the EU—one that is not addressed in the security strategy—is the formidable challenge of formulating a security policy that involves twenty-seven member states.<sup>90</sup> Overall, the European Security Strategy has to be seen as a crucial part of the ongoing development of CFSP/ESDP and efforts to address shortfalls in capabilities across the full range of the Petersberg Tasks. The EU has moved from the phase of theory to that of practice. The effectiveness of the strategy will be determined not by its text, but by the results of the actions that are undertaken in its name.<sup>91</sup>

## Rapid Reaction Forces

The Helsinki Headline Goal envisaged an autonomous EU force of 50,000 to 60,000 troops, deployable within sixty days of the decision to launch an action and sustainable for at least one year. This was to be known as a Rapid Reaction Force and was declared operational at the EU summit in Thessaloniki in 2003, even though it was only two-thirds ready at the time.<sup>92</sup> New Helsinki Headline Goals were identified for 2010

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<sup>88</sup> Quille, “The European Security Strategy: A Framework for EU Security Interests,” 427.

<sup>89</sup> European Security Strategy, Part II, “Strategic Objectives.” See also Martin Ortega, “Beyond Petersberg: Missions for the EU Military Forces,” in *EU Security and Defence Policy: The First Five Years (1999-2004)*, ed. Nicole Gnesotto (Paris: EU Institute for Security Studies, 2004), 82.

<sup>90</sup> Toje, “The 2003 European Union Security Strategy: A Critical Appraisal,” 123.

<sup>91</sup> Javier Solana, *The European Strategy – The Next Step*, Chaillot Paper No. 75 (Paris: Institute for Security Studies, 2004), 18; originally delivered as an address to the Finnish Institute of International Affairs, 25 February 2004.

<sup>92</sup> Ellner, “The European Security Strategy: Multilateral Security with Teeth?”, 230.

with a view to having available forces capable of carrying out military operations in a manner that at some stage will not require the presence of American troops.<sup>93</sup>

### *EU Battle Groups*

At the Military Capabilities Commitment Conference in 2004, the gathered EU defense ministers committed to the “further improvement of military capabilities and offered contributions to the formation of EU Battle Groups (as part of Rapid Response Elements), in the context of implementation of the European Security Strategy.”<sup>94</sup> By February 2005, the member states made commitments to the formation of thirteen battle groups with full operational capability from 2007 onwards.<sup>95</sup> This provides the EU with the capacity to undertake two concurrent battle group-size rapid response operations.<sup>96</sup>

In military terms, a battle group can be described as the minimum militarily effective, credible, rapidly deployable, coherent force capable of stand-alone operations, or for deployment in the initial phase of larger operations. It is based on a combined arms battalion size force of approximately 1500 soldiers, with combat support and combat service support elements.<sup>97</sup> The model adopted by the EU is based on the principle of multi-nationality, and can be formed by a single member state or by a Framework nation with support from other nations or a multinational coalition of member states.<sup>98</sup> The key objectives for the EU in regard to the battle groups are:

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<sup>93</sup> Under the Helsinki Headline Goals for 2010, the member states’ force contributions should be deployable together, become more interoperable in theater, and sustainable with regard to material and logistics. Jean-Paul Perruche, “The Way Ahead,” *Impetus: The Bulletin of the EU Military Staff* (Spring/Summer 2006): 4.

<sup>94</sup> ESDP Presidency Report, *EU Security and Defence*, Core documents 2004, Chaillot Paper No. 75, vol. 5 (Paris: Institute for Security Studies, February 2005), 350.

<sup>95</sup> *Idem*.

<sup>96</sup> *Idem*. Just four countries with large standing armies (France, Italy, Spain, and the United Kingdom), declared that they possess the capacity to provide all of the elements of a single battle group. Other member states agreed to participate in the battle groups in conjunction with others, and to provide niche capabilities. Such capabilities could include contributions of medical groups (Cyprus), water purification units (Lithuania), sea-lift coordination groups (Greece), and structure of a multinational and deployable Force Headquarters (France). Ireland does not have the capacity to provide a battle group as a single deployable element, but it can offer an armored personnel carrier-mounted light infantry company and niche capabilities for such matters as explosive ordnance disposal, combat engineers, transport supply support, and administrative and logistics expertise at the operational HQ level. Speech by the Irish Minister for Defense, Institute of Foreign Affairs Conference on EU Battle Groups, University of Limerick, 28 April 2006; available at [www.iiea.com](http://www.iiea.com).

<sup>97</sup> “Combat support” is support and operational assistance provided to combat elements, while “service support” is support provided to combat forces, mainly in the area of administration and logistics.

<sup>98</sup> EU Council Secretariat Factsheet, *EU Battle Groups*, November 2005; available at [www.consilium.eu.int/ue.eu.int/Newsroom](http://www.consilium.eu.int/ue.eu.int/Newsroom).

- To make the decision to launch an operation within 5 days of the Council's approval of the general political and military parameters of the operation.
- To have forces on the ground no later than 10 days after the decision to launch that are sustainable for 30 days initially, and up to a maximum of 120 days.
- To be able to undertake two simultaneous missions in response to a crisis situation or an urgent request by the UN Security Council.<sup>99</sup>

The commitment to deploy two battle groups simultaneously means that the “tasking” for possible operations can be rotated among the thirteen such groups that were guaranteed by the defense ministers. Some countries indicated their willingness to provide a complete battle group, while others are part of coalitions that can be deployed within the Framework concept. Thus, the requirement to make high-readiness troops immediately available will be shared among all willing participants. An obstacle that could put pressure on achieving the target deployment times is that the process of making a decision to launch not only requires Council approval, but also the agreement of the member states contributing troops to the mission in question. It is conceivable that national decision-making processes could be affected by domestic political pressures that may not be easy to overcome. Some member states may not be in a position to take part in a specific mission, or could participate only under conditions that do not contravene national policies (e.g., a UN mandate). Battle groups differ from the Rapid Reaction Force concept in terms of scale, lead-in time, and length of deployment. Their size means that they are not capable of major military action, but they can form part of a broader strategy as an “early entry” or enabling force to prepare for the deployment of a larger, more robust force. A task that appears very suitable for battle groups in the context of the mutually reinforcing civilian and military approach favored by the EU would be providing a rapid response to humanitarian crisis operations at short notice. The delays in deploying the EU force to Chad in late 2007 and early 2008 demonstrate that there are some serious operational issues to be worked out before the EU battle group concept can be considered effective.

## **ESDP Becomes Operational**

### *Police Mission in Bosnia and Herzegovina*

The ESDP became truly operational in 2003, and did so in a way that few policy makers could have anticipated.<sup>100</sup> Four distinct operations were undertaken that year: two

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<sup>99</sup> The timelines envisaged for such a rapid deployment mean that battle groups must be maintained at a state of readiness of five to ten days' notice to move. EU Factsheet, *The EU Battle Groups and the EU Civilian and Military Cell*, February 2005; available at [www.consilium.europa.eu/uedocs/cmsUpload/Battlegroups.pdf](http://www.consilium.europa.eu/uedocs/cmsUpload/Battlegroups.pdf).

<sup>100</sup> Gustav Lindstrom, “On the Ground: ESDP Operations,” in *EU Security and Defence Policies: The First Five Years (1999–2004)*, ed. Nicole Gnesotto (Paris: EU Institute for Security Studies, 2004), 111.

police missions and two military missions, one of which was conducted outside Europe. The EU had already committed itself to one such operation in March 2002 when it had guaranteed that it would deploy an EU Police Mission in Bosnia-Herzegovina (BiH) on 1 January 2003, to replace the UN International Police Task Force deployed pursuant to the General Framework for Peace (Dayton Agreement) in December 1995.<sup>101</sup> The EU Police Mission was the first civilian crisis management operation to be initiated under the ESDP. This was the first instance of UN-EU cooperation on the ground during an actual crisis management operation, and was a test of the ability to ensure a “seamless transition” from one organization to the other.<sup>102</sup> While the operation was launched before the completion of the drafting of the European Security Strategy, the mission is directly relevant to two of the five key threats identified in the document: state failure and organized crime.<sup>103</sup> For the first three years of its existence, the EU Police Mission was involved in developing police independence and accountability, fighting organized crime and corruption, ensuring the financial viability and sustainability of local police forces, and creating institutions supported by capacity building.<sup>104</sup> At no stage did it have either an executive mandate or the authority to carry out any operational tasks. In January 2006, the EU was requested by BiH to establish a follow-on mission for a period of two years with a modified mandate and size.<sup>105</sup> The EU Police Mission is currently focused on supporting the police reform process and developing local capacity and regional cooperation in the fight against organized crime by establishing a sustainable, professional, and multiethnic police service in accordance with best European and international standards.<sup>106</sup>

### *Operation Concordia in the Former Yugoslav Republic of Macedonia*

In March 2003, the EU launched its first military mission, Operation Concordia, at the invitation of the government of the Former Yugoslav Republic of Macedonia (FYROM). This force replaced NATO troops that had been operating there since August 2001, and was primarily tasked with overseeing the implementation of the Ohrid

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<sup>101</sup> Annex 11 requested the UN to establish a UN International Police Task Force (IPTF) to carry out various tasks including monitoring, observing, and inspecting law enforcement activities, training and advising law enforcement personnel, and advising the government of BiH.

<sup>102</sup> Thierry Tardy, *EU-UN Cooperation in Peacekeeping: A Promising Relationship in a Constrained Environment*, Chaillot Paper No. 78 (Paris: Institute for Security Studies, June 2005), 55.

<sup>103</sup> Kari M. Osland, “The EU Police Mission in Bosnia and Herzegovina,” *International Peacekeeping* 11:3 (2004): 544.

<sup>104</sup> Lindstrom, “On the Ground: ESDP Operations,” 113–14.

<sup>105</sup> EU Council Joint Action 2006/49/CFSP, 30 January 2006.

<sup>106</sup> EU Factsheet, *EU Police Mission in Bosnia and Herzegovina (EUPM)*, March 2006. The force was reduced from a total of approximately 560 personnel to 198 international members (170 police and 20 civilians), supported by some 200 BiH nationals.



Framework Agreement.<sup>107</sup> This agreement brought an end to fighting between the Macedonian authorities and ethnic Albanians that threatened to plunge the country into civil war.<sup>108</sup> The force consisted of approximately 400 lightly-armed troops drawn from twenty-six states, including all member countries of the EU, with the exception of Denmark and Ireland.

Denmark decided to opt out of any commitments to the CFSP/ESDP process at the time of the Treaty of European Union, and did not play any role in Operation Concordia.<sup>109</sup> Ireland, with its light infantry-based forces and experience in UN peacekeeping missions, was ideally suited to participate in this operation. It represented an ideal opportunity to give a positive indication of Ireland's preparedness to take part in the first EU military operation and demonstrate its willingness to shoulder its share of the EU security burden. Operation Concordia, however, did not have a UN mandate, and in these circumstances Ireland could not participate. The force was deployed in patrolling the ethnic Albanian populated areas along Macedonia's borders with Serbia, Kosovo, and Albania.

In addition to being the first EU military mission, Operation Concordia was also the first occasion in which NATO assets were made available to the EU Force under the Berlin Plus arrangements.<sup>110</sup> The operation headquarters was located at Supreme Headquarters Allied Powers (SHAPE) in Belgium, with regional headquarters in the FYROM capital Skopje, along with the cities of Kumanovo and Tetovo, which were all areas of potential unrest. Operational command was vested in the NATO Deputy Supreme Allied Commander in Europe, and field command was exercised by an officer of two-star general rank approved by both NATO and the EU. All three worked in close coordination with the EU Special Representative based in FYROM.<sup>111</sup> The force remained under the political control and strategic direction of the EU, but close links were maintained with NATO at all levels.<sup>112</sup> Coordination between the EU and NATO was achieved by the "double-hatting" of key personnel at the co-located headquarters for the mission. Regular contact was maintained throughout the operation between the

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<sup>107</sup> The Ohrid Framework Agreement was signed on 13 August 2001 between the Macedonian and Albanian political parties to the fighting, under the auspices of the U.S. and EU. It was named after Lake Ohrid, where negotiations took place.

<sup>108</sup> Mace, "Operation Concordia: Developing a 'European' Approach to Crisis Management," 475.

<sup>109</sup> Amendments to the Treaty on European Union subsequently embodied in the Amsterdam Treaty by means of a special protocol stipulate that Denmark does not participate in the preparation and implementation of any actions with defense implications. Amsterdam Treaty, Protocol on the Position of Denmark, Part 11, Article 6, Exemptions from Articles J3 (1) and J7.

<sup>110</sup> Mace, "Operation Concordia: Developing a 'European' Approach to Crisis Management," 474.

<sup>111</sup> Lindstrom, "On the Ground: ESDP Operations," 118.

<sup>112</sup> Mace, "Operation Concordia: Developing a 'European' Approach to Crisis Management," 482.

Political and Security Committee of the EU and the North Atlantic Council of NATO.<sup>113</sup>

Operation Concordia was terminated on 15 December 2003, as the presence of a military force was no longer considered necessary. However, as the situation had not fully stabilized, the EU force was immediately replaced by an EU police mission, Operation Proxima.<sup>114</sup> In terms of peacekeeping, Concordia was a relatively small operation, but it was multi-national in composition, and demonstrated that the EU was capable of conducting small-scale military crisis management operations in support of ESDP objectives. In addition, it showed that the Berlin Plus arrangements for EU access to NATO assets could function well at the operational level.<sup>115</sup> This was evidenced by the fact that the same blueprint was used for the much larger EU operation in Bosnia the following year. The EU's response to the situation in Macedonia was a key element in preventing further ethnic conflict that would have had implications for neighboring countries, including Greece.

### *EU Missions in the Democratic Republic of Congo*

*Operation Artemis.* In early 2003, there was a significant increase in the number of deaths and internally displaced persons arising from the ten year long conflict in the Democratic Republic of the Congo (DRC). The withdrawal of Ugandan forces from the UN peacekeeping force (MONUC) led to a deteriorating security situation in the Ituri region.<sup>116</sup> The UN Secretary-General was concerned about the possibility of a large-scale massacre of civilians by undisciplined militias, and made an urgent request to the EU to provide a force to stem the tide of violence in the DRC until a larger and more robust UN force could be deployed. The memories of Srebrenica and Rwanda were still very fresh in the minds of the international community, and a descent into

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<sup>113</sup> The Political and Security Committee consists of national representatives at the ambassadorial level with responsibility for the political control and strategic direction of crisis management operations. The North Atlantic Council has effective political authority and powers of decision and consists of permanent representatives of all NATO member countries. See Chapter 7 of *NATO Handbook*, "Policy and Decision Making" (Brussels: NATO Office of Information and Press, 2001; updated 2004).

<sup>114</sup> Operation Proxima was established by a Council Joint Action, 2003/681/CFSP, on 29 September 2003. The new operation was a police mission that was expected to last for one year. Approximately 200 EU police officers were mandated to help fight organized crime, monitor border police operations, and to introduce EU police standards along the lines envisaged for the EU Police Mission. As this was not a military mission, there was no requirement to make use of NATO capabilities under the Berlin Plus arrangement. The original mandate was extended by an additional year, and the mission ended on 14 December 2005.

<sup>115</sup> Mace, "Operation Concordia: Developing a 'European' Approach to Crisis Management," 487.

<sup>116</sup> *Annual Review of Global Peacekeeping Operations 2007* (Boulder, CO: Lynne Rienner, 2007), 58–65; and [www.un.org/Depts/dpko/missions/monuc/](http://www.un.org/Depts/dpko/missions/monuc/).

wholesale slaughter would have been a further blow to the credibility of the UN, especially the Security Council.<sup>117</sup>

The EU responded positively, and the Security Council approved a resolution mandating the presence of an EU-led force.<sup>118</sup> The mandate authorized “the deployment of an Interim Emergency Multinational Force in Bunia in close coordination with MONUC.” The force was deployed to protect the airport and the camps for internally displaced persons in Bunia and, if necessary, protect the civilian population as well as other humanitarian personnel in the town.<sup>119</sup> The launching of the operation (code-named “Artemis”) was an important step in the progressive development of the ESDP, and provided a test case for the guiding principles in preparation for the drawing up of the European Security Strategy. This marked a significant development in EU military operations: it was the first operation conducted independent of NATO; it was initiated by the EU; and it was conducted outside of Europe pursuant to Chapter VII of the UN Charter.<sup>120</sup>

The EU force, consisting of approximately 2000 troops (of whom 1700 were French<sup>121</sup>) began operations on 6 June 2003.<sup>122</sup> Because of the balance of forces in this instance, the NATO capabilities available under the Berlin Plus arrangements were not called upon, and the operation was led and commanded by the French acting as a Framework nation.<sup>123</sup> Issues such as command and control, logistical support, and sustainability remained under national control, thus avoiding the requirement to enter into any complex multi-national arrangements. As with Operation Concordia, close coordination was maintained between the military commanders and the EU Special Representative working in the region. Operation Artemis was a relatively small military operation with a narrow mandate and a predetermined duration. Nevertheless, it demonstrated that the EU could establish relevant organizational structures and successfully conduct an operation in support of the stabilization and reconstruction process.<sup>124</sup> It also introduced the “bridging model,” which is aimed at deploying a force with the intention of giving the UN time to mount a new operation in cases where the UN is not able to respond to an urgent request for rapid deployment in a crisis situation.<sup>125</sup> In

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<sup>117</sup> Ståle Ulriksen, Catriona Gourlay, and Catriona Mace, “Operation Artemis: The Shape of Things to Come?” *International Peacekeeping* 11:3 (2004): 513.

<sup>118</sup> UNSCR 1484 passed on 30 May 2003.

<sup>119</sup> Ulriksen, Gourlay, and Mace, “Operation Artemis: The Shape of Things to Come?”, 513.

<sup>120</sup> *Ibid.*, 508.

<sup>121</sup> Lindstrom, “On the Ground: ESDP Operations,” 119.

<sup>122</sup> *Ibid.*, 119. See also United Nations Peacekeeping in the Service of Peace, *Operation Artemis – The Lessons Learned in the Interim Emergency Multinational Force* (United Nations, Peacekeeping Best Practices Unit, Military Division), 3; available at <http://pbpu.unlb.org/pbpu/library/artemis.pdf>.

<sup>123</sup> A Framework nation (FN) is a member state that has volunteered to take specific responsibilities in an operation over which the EU exercises political control.

<sup>124</sup> Ellner, “The European Security Strategy: Multilateral Security with Teeth?”, 231.

<sup>125</sup> *Ibid.*, 232.

September 2003, responsibility for the security of the region was handed back to the MONUC.

Operation Artemis was criticized as essentially a French operation commanded by French officers. In fact, eight other states contributed forces: Belgium, Brazil, United Kingdom, Canada, Germany, Greece, South Africa, and Sweden.<sup>126</sup> In addition, Austria, Hungary, Ireland, Italy, the Netherlands, Portugal, and Spain contributed officers to HQ operations.<sup>127</sup> In this instance the “framework nation” principle worked effectively, but there were considerable political misgivings, particularly in Africa, because of France’s historic legacy as a colonial power in the region.<sup>128</sup> It is noteworthy that no EU states took part in the strengthened UN force that took over from the Operation Artemis force, despite requests from the UN Secretariat for some assets to be “re-hatted.”<sup>129</sup> This may indicate that EU states are willing to support UN-mandated operations when they are led by regional organizations such as the EU itself or NATO, but not in cases where a traditional UN force led by a multinational headquarters under direct control of the Department of Peacekeeping Operations is deployed.

*EUFOR.* On 25 April 2006, the UN Security Council adopted Resolution 1671, authorizing the EU to deploy a standby force (EUFOR) to the DRC for the four months following the first round of presidential and parliamentary elections.<sup>130</sup> This force consisted of about 2000 mainly French and German troops, operating under a Chapter VII mandate. Their primary function was to assist MONUC in providing security and protecting civilians. Most of the troops were deployed as “over the horizon” stand-by forces in Gabon, but around 800 secured the airport at Kinshasa, and another 400 were deployed in August 2006 to suppress fighting between rival political factions. Although the mission did not make a significant military difference, it did have an important political impact.<sup>131</sup>

### *The EU and Bosnia and Herzegovina*

*Military Mission in BiH: Operation “Althea.”*<sup>132</sup> During the early part of 2003, NATO began a critical analysis of its commitment to the Stabilization Force (SFOR) in Bos-

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<sup>126</sup> Ulriksen, Gourlay, and Mace, “Operation Artemis: The Shape of Things to Come?”, 520.

<sup>127</sup> *Ibid.*, 520.

<sup>128</sup> *Ibid.*, 521.

<sup>129</sup> Tardy, *EU-UN Cooperation in Peacekeeping: A Promising Relationship in a Constrained Environment*, 57.

<sup>130</sup> *Annual Review of Global Peacekeeping Operations 2007*, 59; and [www.un.org/Depts/dpko/missions/monuc/](http://www.un.org/Depts/dpko/missions/monuc/).

<sup>131</sup> In April 2005, the EU established its first civil mission for crisis management in Africa within the framework of the ESDP. Its mandate is to advise the Congolese Integrated Police Unit in adhering to international policing standards.

<sup>132</sup> Javier Solana, European Union High Representative for CFSP, “Launch of the EU ‘ALTHEA’ Operation in Bosnia and Herzegovina, Sarajevo,” S0337/04, December 2004. The Council of the EU decided on 12 July 2004 (Council Joint Action 2004/570/CFSP of 12 July 2004) to conduct a military operation in BiH within the framework of the ESDP.

nia.<sup>133</sup> At the same time, in the wake of two successful EU missions in the DRC and Macedonia, international pressure was being exerted on the EU to consider taking over responsibility from NATO in Bosnia and Herzegovina. This was agreed to at the European Council meeting of 12 December 2003, where it was announced that an ESDP mission, including a military component, would be established in BiH if and when NATO decided to terminate SFOR. This new force, to be known as EUFOR, possessed the same legal authority as SFOR to implement the terms of the Dayton Agreement.<sup>134</sup>

Acting under Chapter VII of the UN Charter, the mission had two fundamental objectives. First, it would guarantee the secure environment required for the core objectives of the Office of the High Representative's Mission to BiH in regard to the Implementation Plan and the Stabilization and Association Agreement, and would contribute directly to it.<sup>135</sup> Second, this force would have a particular focus against organized crime.

The Office of the High Representative was also to act as the EU Special Representative and be given responsibility for coordinating the activities of all the different EU agencies in BiH, including the EU Police Mission, EUFOR, and the EU Monitoring Mission (EUMM).<sup>136</sup> Javier Solana signaled that he wanted the EU Special Representative to act as the *primus inter pares* among the heads of all these agencies, and the Council mandated him to promote overall EU political coordination and chair a coordinating group composed of all EU actors in the field, including the EUFOR commander, with a view to ensuring that the implementation aspects of the EU's action plan were in concert.<sup>137</sup> This ensured that the mission would have a political focus along with the application of military power. It was clear that there were serious concerns within the EU about the mission, and an awareness that Operation Althea would

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<sup>133</sup> This force had succeeded the NATO-led Implementation Force (IFOR) deployed pursuant to the General Framework Agreement for Peace, more commonly referred to as the Dayton Agreement, concluded in Dayton, Ohio, on 21 November 1995, and signed in Paris on 14 December 1995.

<sup>134</sup> Javier Solana, *EU Statement on the Summary of the Report by EUHR for CFSP on a Possible EU deployment in BiH*, 1 March 2004.

<sup>135</sup> Under Annex 10 of the Dayton Agreement, a High Representative was appointed by the UN to monitor the implementation of the settlement. The Implementation Plan set out the core tasks for the Office of the High Representative. The SAA is designed as the principal instrument of the Stabilization and Association Process (SAP) to structure a signatory state's progress towards EU membership. SAP was launched in 1999 to provide a new framework for the EU's relations with countries in the Western Balkans, including Albania, Bosnia, Croatia, Macedonia, and Serbia and Montenegro. SAP offers countries in the region a "membership perspective" that explicitly recognizes that the future of the region lies with the EU. SAP is designed to encourage regional cohesion.

<sup>136</sup> The EUMM was established in 2001 and succeeded the European Community Monitoring Mission (ECMM), which was set up in 1991. The mission was deemed successfully completed on 31 December 2007. See Javier Solana, "EU High Representative for CFSP Welcomes the Successful Completion of the EUMM," S375/07, Brussels, 27 December 2007.

<sup>137</sup> Ellner, "The European Security Strategy: Multilateral Security with Teeth?", 233.

present a greater challenge than did Operation Concordia in Macedonia. There was also some trepidation regarding the fact that this mission would represent the first real operational test of the Berlin Plus arrangements.<sup>138</sup> Solana pointed out that, in order to be effective, a force would need to have good intelligence, flexible and integrated capabilities, and be able to call on “over the horizon” reserves. The EU did not have the means at that time (notwithstanding the development of the battle group concept) to increase its capabilities in these three areas, either singly or collectively, without external support—support that in this case could only come from NATO. In this way, Solana left the door open for a continuing NATO presence and involvement in BiH.

*Comprehensive Policy for BiH.* Under the European Security Strategy, the European Council adopted a Comprehensive Policy for BiH in June 2004 that stated that all EU actors/instruments—whether political, military, police-related, or economic—would contribute to implementing this overall EU policy.<sup>139</sup> In order to ensure close cooperation and coherence between these actors/instruments, a number of key arrangements were put in place. The most important of these in regard to the deployment of EUFOR were the modalities for close liaison with the NATO Operational Headquarters at Supreme Headquarters Allied Powers Europe (SHAPE) at Mons in Belgium, the EU Command Element at NATO Joint Forces Command (South), and the Force Headquarters in Sarajevo. In accordance with the Berlin Plus arrangements implemented in Operation Concordia, the EU Operation Commander would also be the NATO Deputy Allied Supreme Commander, with his headquarters for the EUFOR mission co-located with his NATO headquarters in Mons, Belgium. EUFOR would take over all the existing facilities, infrastructure, and locations from SFOR and operate under the same Status of Forces Agreement.

The objective of this ESDP mission was to set BiH irreversibly on the track towards EU membership.<sup>140</sup> The implication was that BiH would have to respond positively to EU initiatives across the full range of activities in both political and security areas. In the long term, the EU wanted a stable, viable, peaceful, and multiethnic BiH, cooperating peacefully with its neighbors and firmly on the track toward becoming a full member of the European community. In the medium term, the EU would support BiH’s own efforts to move toward EU integration by contributing to a safe and secure environment. Finally, in the short term, the EU would ensure a seamless transition from SFOR to EUFOR in order to help maintain a secure environment for the implementation of the military aspects of the Dayton Agreement.<sup>141</sup> These were the commitments that the EU was prepared to make to maintain peace in BiH, while simultaneously setting out targets that must be achieved by the country itself.

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<sup>138</sup> Sloan, *NATO, The European Union, and The Atlantic Community*, 201.

<sup>139</sup> “European Security Strategy, Bosnia and Herzegovina—Comprehensive Policy,” adopted by the European Council, 17–18 June 2004; available at [www.eusrbih.org/policy/?=1,1,1](http://www.eusrbih.org/policy/?=1,1,1).

<sup>140</sup> Javier Solana’s remarks at the Istanbul NATO Summit, issued by the EU Council, Ref CL04-130EN, 28 June 2004.

<sup>141</sup> Press Release, “EU Military Operation in Bosnia and Herzegovina,” ATH/02, 1 October 2004; available at <http://ue.eu.int/Newsroom>.

The Council of the EU adopted a Joint Action on 12 July 2004, and announced its readiness to launch an ESDP mission in BiH.<sup>142</sup> UN Security Council Resolution 1575 (2004) authorized EUFOR as the legal successor to SFOR and welcomed the decision of NATO to conclude the SFOR operation and to maintain a presence in BiH in order to continue to assist in the implementation of the Dayton Agreement.<sup>143</sup> The EU Political and Security Committee would exercise political control and provide strategic direction to EUFOR, and was authorized on the recommendation of the EU Operation Commander and the EU Military Committee to allow the participation of other states in the mission that fell into the following categories: non-EU European NATO members and Canada (if they so wished); countries that are candidates for EU accession; and potential partners or other third states that may be invited. The formal change of command between the two forces took place on 2 December 2004.

### *EU Mission to Chad/Central African Republic*

The EU-led mission to Chad in 2008 marked a departure from the previous pattern of cautious, safe policy decisions with respect to EU military deployments.<sup>144</sup> During 2006, in the Political and Security Committee, the option of launching an ESDP mission in southern Lebanon was given serious consideration. The argument went, why not assume command when EU states were contributing the bulk of the forces anyway? In the event, only a UN operation proved acceptable to the parties in the conflict, a decision that met with very little disappointment in EU circles.<sup>145</sup> The large contribution of member states to UNIFIL still allowed the EU to play a significant leadership role in the operation.

However, it is not at all clear that the EU has graduated from the status of “payer” to the role of “player” in the international arena. The delays in deploying the EU mission to Chad and the Central African Republic have highlighted the weaknesses in the EU’s capacity to launch military operations of this nature.<sup>146</sup> Lack of air transport, helicopters, and medical facilities hampered early efforts to get the mission off the ground. Such developments do not serve to inspire confidence in the ESDP. Ultimately, the required commitments were made by member states. But several nagging questions remain: Why did this take so long? Why were these commitments not organized at the outset of the mission?

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<sup>142</sup> Council Joint Action 2004/570/CFSP, 12 July 2004.

<sup>143</sup> UNSCR 1575, 22 November 2004; see Part II, paragraphs 10 and 11. The resolution was adopted under Chapter VII of the UN Charter.

<sup>144</sup> UN Security Council, SC/9127, “Security Council Authorizes Establishment of ‘Multi-dimensional Presence’ in Chad, Central African Republic,” unanimously adopting resolution 1778 (2007), 25 September 2007.

<sup>145</sup> Personal interview with an Irish EU official, Brussels, September 2007.

<sup>146</sup> See Jamie Smyth, “EU Mission to Chad Faces Further Delays,” *The Irish Times* (29 November 2007); and “Military Approves Chad Mission,” *BBC News* (11 January 2008).

## Conclusions

Since 2003, the EU has undertaken a wide range of civilian and military crisis management functions, including the promotion of the rule of law, border control, training of police and security forces, monitoring peace agreements, peacekeeping, and assistance in tackling organized crime.<sup>147</sup> In this way, the policy adopted can be described as incremental or gradualist in nature, while the operations themselves have been modest in scope. These advances in the CFSP/ESDP clearly demonstrate the ability and willingness of the EU to deploy both civilian and military missions. The EU can no longer be just considered a civilian power, since it has begun the process to develop a military component through the ESDP.<sup>148</sup> The arrangements under the Berlin Plus structure—whereby the EU is guaranteed access to NATO assets for military operations—have been a significant factor in the development of the ESDP. However, the ESDP should not be equated with the militarization of Europe. It is a policy akin to risk management on a regional basis,<sup>149</sup> and is focused on building capabilities to back up political compromises in crisis management situations.<sup>150</sup> In the context of the European Security Strategy and the provision of support for regional organizations, the EU has provided financial planning, political support, and military advice to enable the African Union to launch a peacekeeping mission in Sudan (AMIS II).

The EU has demonstrated its commitment to the UN, although this probably has as much to do with the EU's ambition to play the role of "global actor" as it does with actual European support for the UN itself. The relationship between the EU and the UN is conducted on a higher level than the UN's relationships with other regional organizations, even though the EU does not consider itself a regional organization within the meaning of Chapter VIII of the UN Charter. The increase in the EU's membership to twenty-seven states has enhanced the Union's influence and voting power within the UN without undermining coordination between the two bodies.

The EU can assist UN peacekeeping efforts while strengthening its own visibility. Nonetheless, the EU cannot respond to all the crises and conflicts that occur. It must be selective and prioritize situations according to transparent criteria. Each case is complex, and raises a thorny set of questions. Why Chad and not Darfur? Was the opposition of the Khartoum regime the decisive factor? An informed debate is needed on these issues and, whatever the outcome, criteria should be adopted for how missions will be selected. Likewise, it is clearly in Europe's interest to be involved in Kosovo. A

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<sup>147</sup> See the Council of the EU, *ESPD Newsletter*, No. 5 (December 2007), and details on the ESDP at [www.consilium.europa.eu/cms3\\_fo/showPage.asp?id=261&lang=en](http://www.consilium.europa.eu/cms3_fo/showPage.asp?id=261&lang=en).

<sup>148</sup> Ana E. Juncos, "The EU's Post-conflict Intervention in Bosnia and Herzegovina: (re)Integrating the Balkans and/or (re)Inventing the EU?" *Southeast European Politics* 6:2 (2005): 96.

<sup>149</sup> Jolyon Howorth, *Security and Defense Policy in the European Union* (New York: Palgrave Macmillan, 2007), 10.

<sup>150</sup> Rainer Schuwerth, "Actors and Witnesses," in *EU Security and Defence Policy: The First Five Years (1999–2004)*, ed. Nicole Gnesotto (Paris: Institute for Security Studies, 2004), 241.



similar argument can be made with respect to the Middle East, but what of conflict regions such as Aceh, Indonesia and beyond? The EU is willing to listen to demands, but it is likely to insist on political autonomy and an EU chain of command, with the political and strategic control being exercised by the EU Political and Security Committee.<sup>151</sup> Furthermore, the EU will always be dependent on national decisions to provide troops. Engaging national parliaments in the intergovernmental process is important for democracy and civilian oversight. It also has the advantage of making policy failures more acceptable when they are based on a collective and inclusive process. Ultimately, current ESDP military operations are based on extension of the spirit of a coalition of the willing to permanent structured cooperation. If some EU states are willing to participate in such missions, then those that are unwilling or unable to participate should not impede this commitment.

The UN remains concerned that EU crisis management policy might be developing at the expense of EU contributions to UN peace operations.<sup>152</sup> The facts indicate that such fears are not unreasonable.<sup>153</sup> Given the support it has so publicly voiced for the UN, the EU must ensure that this does not happen. The EU member states' agreement to reinforce the UN peacekeeping force in Lebanon (UNIFIL) in 2006 should go some way to allaying such fears.<sup>154</sup> The idea that the UN will be however allowed to play a decisive role in EU-led operations is unlikely to be acceptable in Europe, given the role of the EU Political and Security Committee and the increasing coherence of the CFSP.

In the international context, the EU is not competing against its own member states, but rather posits itself as an actor among other actors.<sup>155</sup> Member states exercise real control over decisions relating to the ESDP, but institutional rivalries within the EU have yet to be resolved. The role of the EU in the management of internal crises and the link with external crisis management operations needs to be explored further. The disconnect between intergovernmental ESDP crisis management and Commission activity in the same field remains a significant weakness in the EU's institutional structures involved in such operations.<sup>156</sup> In practical terms, these activities can be institutionally divorced from one another. This is especially so with civilian crisis management operations, which can lead to inefficient and fragmented approaches. Nor can any clear distinction be made between the roles of the Community (the Commission)

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<sup>151</sup> Jim Cloos, "EU-UN Cooperation on Crisis Management – Putting Effective Multilateralism into Practice," in *The United Nations and the European Union: An Even Stronger Partnership*, ed. Wouters, Hoffmeister, and Ruys, 263.

<sup>152</sup> Personal interview with DPKO official at the United Nations, New York, June 2007.

<sup>153</sup> See Wouters and Ruys, "UN-EU Cooperation in Crisis Management," 248–55.

<sup>154</sup> Information on UNIFIL is available at [www.un.org/Depts/dpko/missions/unifil/](http://www.un.org/Depts/dpko/missions/unifil/).

<sup>155</sup> Simon Duke and Hanna Ojanen, "Bridging Internal and External Security: Lessons from the European Security and Defence Policy," *Journal of European Defence Policy* 28:5 (December 2006): 477–94; quoted at 493.

<sup>156</sup> Catriona Gourlay, "European Union Procedures and Resources for Crisis Management," *International Peacekeeping* 11:3 (2004): 404–21.

and the member states (the Council) in crisis management on the basis of a division of labor or the length of the operation.<sup>157</sup> While the High Representative, Javier Solana, and the External Relations Commissioner, Chris Patten, worked well together, this level of cooperation cannot be assumed to exist in the future between different individuals.<sup>158</sup> One recommendation made was for the appointment of a “double-hatted” foreign minister.<sup>159</sup> This was provided for in the proposed EU Constitution, and was probably the most important foreign policy proposal.

The Lisbon Treaty strengthens the EU’s external identity and capacity for international action.<sup>160</sup> This will be achieved through the formal creation of a single legal personality for the EU, which will strengthen its negotiating power, making it more effective on the world stage and a more visible partner for third countries and international organizations. The Lisbon Treaty dedicates a special section to the ESDP, renaming it the Common Security and Defense Policy (CSDP).<sup>161</sup> It also expands the range of tasks that may be undertaken.<sup>162</sup> The establishment of the offices of the EU President and the EU High Representative for Foreign and Security Policy—along with an EU External Action Service that will provide back-up and support to the High Representative—will also help to improve the formulation and implementation of the CFSP.

Progress in the ESDP should not be measured just in security terms, but in steps toward the creation of an environment in which EU standards of justice and political, economic, and cultural norms can apply. Many obstacles will have to be overcome, especially in the fight against organized crime and the corruption that exists throughout the Balkans in particular. A failure in BiH would be a serious setback for the future of the ESDP. Perhaps the situation was best summed up by the first High Representative to BiH, Carl Bildt:

It is sometimes said that the success of ESDP should be measured by its achievements in the Balkans. While being too limited a view of the tasks of ESDP—with the ESS a far more ambitious agenda has been set—it is nevertheless true that a policy that is seen as failing here will have a hard time making itself a success elsewhere.<sup>163</sup>

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<sup>157</sup> Duke and Ojanen, “Bridging Internal and External Security,” 485.

<sup>158</sup> International Crisis Group, *EU Crisis Response Capability Revisited*, Europe Report No. 160 (??, 17 January 2005), 7.

<sup>159</sup> *Ibid.*, 420.

<sup>160</sup> On 13 December 2007, EU leaders signed the Treaty of Lisbon, thus bringing to an end several years of negotiation about institutional reform. It amends the current EU and EC treaties without replacing them.

<sup>161</sup> Lisbon Treaty, Section 2, Chapter II.

<sup>162</sup> Lisbon Treaty, Article 43(1). The tasks include joint disarmament operations, military advice and assistance tasks, conflict prevention tasks, and post-conflict stabilization.

<sup>163</sup> Carl Bildt, “The First Five Years (1999–2004): Actors and Witnesses,” in *EU Security and Defence Policy: The First Five Years (1999–2004)*, ed. Nicole Gnesotto, 142.

The future stability of Europe is inextricably linked with that of Kosovo and the Balkans.<sup>164</sup> The outbreak of civil disturbances in March 2004, including ethnic cleansing of Serbs, has added to the uncertainty and tension in the region. In Serbia, the government has reacted negatively to Kosovo's declaration of independence. Montenegro has already separated from its "Solana imposed" union with Serbia.<sup>165</sup> A reciprocal demand by the Republika Srpska, supported by Serbia, remains a possibility.

The EU is not a single state, and it does not possess "state-like military forces."<sup>166</sup> Unlike NATO, it does not yet have a collective mutual defense commitment, as its neutral countries have not displayed any willingness to enter into such an arrangement, and there is no such obligation contained in the Treaty on European Union.<sup>167</sup> The proposed EU Constitution contained a mutual assistance clause, although it stopped short of a commitment to act militarily in a situation where a member state was threatened; instead, it called for member states to recognize the primacy of the UN and international law before undertaking any such activity.<sup>168</sup> It acknowledged that NATO remains the foundation of the collective defense of those EU states that are also members of that organization. It also drew attention to the contradictions between the EU consensus approach to security and the pre-emptive doctrine of NATO.

For some critics, the ESDP will remain merely an intergovernmental exercise, constrained by national domestic political issues, subject to variable perceptions of national and international interests, and subservient to certain states' commitments to NATO.<sup>169</sup> Nevertheless, even though the ESDP has been placed under the Second Pillar of the EU (Common Foreign and Security Policy, or CFSP), and as such is not legally binding on the member states, the policy is not merely aspirational. It is now fully operational, and significant advances have been achieved at the planning and opera-

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<sup>164</sup> See International Crisis Group, "Kosovo's Fragile Transition," Europe Report N°196 (25 September 2008), and generally the recommendations put forward by the UN Special Envoy Martti Ahtisaari; and Stanley Kobar, "Europe's Approaching Train Wreck," *International Herald Tribune* (22 March 2007). See also International Crisis Group, "Kosovo: No Good Alternatives to the Ahtisaari Plan," Europe Report N°182 (14 May 2007); and International Crisis Group Media Brief, "Serbia's New Government: Turning from Europe," Belgrade/Brussels (31 May 2007).

<sup>165</sup> Solana brokered the Belgrade Agreement of 14 March 2002 that dissolved Tito's Yugoslavia and created the Union of Serbia and Montenegro. This policy was opposed by a majority of Montenegrins, who wanted to be independent of a malignant and impoverished Serbia. See Rory Keane, "The Solana Process in Serbia and Montenegro: Coherence in EU Foreign Policy," *International Peacekeeping* 11:3 (2004): 491–507.

<sup>166</sup> Dinan, *Ever Closer Union*, 605.

<sup>167</sup> Frederik Naert, "European Security and Defence in the EU Constitutional Treaty," *Journal of Conflict and Security Law* (2005): 192.

<sup>168</sup> Article I-41(7) states that in cases where "a Member State is the victim of armed aggression on its territory, the other Member states shall have towards it an obligation of aid and assistance by all means in their power in accordance with Article 51 of the United Nations Charter."

<sup>169</sup> Sloan, *NATO, The European Union, and The Atlantic Community*, 207.

tional levels. One of the concerns that perhaps has not fully been analyzed and examined in the literature on EU military operations is that the forces earmarked for deployment are the same troops that are committed to NATO. There is no reservoir of similar forces beyond those units, and these countries do not appear to be in a position to meet any simultaneous requirements that might arise.

The CFSP complements the already strong economic and diplomatic instruments of the EU and its member states.<sup>170</sup> However, all ESDP missions will inevitably confront human rights issues, yet the development of human rights policy within the ESDP is comparatively immature.<sup>171</sup> The EU's situation assessments of cases where civil and/or military intervention is envisaged should include a human rights analysis of the region, and the mandate should include human rights protection and promotion as key objectives of achieving lasting peace. In addition, human rights and democracy clauses should, normatively speaking, be included in all EU agreements with third countries so as to contribute to the defense of democracy and basic freedoms throughout the world.<sup>172</sup> An important lesson that has been learned from the EU operations to date is that military intervention is usually followed by a sustained period of political, economic, and social instability, the resolution of which demands a complex mix of military, diplomatic, humanitarian, and economic approaches and a long-term commitment.<sup>173</sup>

Since the adoption of the European Security Strategy in 2003, the EU has gained considerable experience in managing peace-enforcement, peacekeeping, policing, and civilian operations. The question remains, however, as to whether this indicates that the Union is capable of developing a fully autonomous and coherent military doctrine that will allow EU forces to launch ESDP operations.<sup>174</sup> It is important to place conditions on the use of military power that include democratic control, accountability, and the "last resort" argument, which stipulates that the use of force is legitimate only in exceptional cases.<sup>175</sup> The EU must ensure that the use of any military force has international legitimacy, by way of a UN mandate and a broad international consensus. To date, all ESDP missions with a military component have been based on a UN mandate, and thus far international public opinion has been supportive; if anything public opinion has been critical of the EU's failure to deploy forces soon enough to prevent or resolve crisis situations. The EU operations in Macedonia, the Congo, and Bosnia may not be particularly impressive in military terms, but they were accepted by the local

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<sup>170</sup> Shepherd, "The European Union's Security and Defence Policy: A Policy without Substance?", 39.

<sup>171</sup> Jana Arloth and Frauke Seidensticker, *The ESDP Crisis Management Operations of the European Union and Human Rights* (Berlin: Deutsches Institut für Menschenrechte, 2007), 53.

<sup>172</sup> Winn, "CFSP, ESDP, and the Future of European Security," 152.

<sup>173</sup> Ellner, "The European Security Strategy: Multilateral Security with Teeth?", 224.

<sup>174</sup> Bono, "The EU's Military Doctrine: An Assessment," 453.

<sup>175</sup> Juncos, "The EU's Post-conflict Intervention in Bosnia and Herzegovina," 97.

population in their respective regions.<sup>176</sup> This may be in large part due to the deployment of civil tools to complement the military objectives, especially in the areas of rule of law and economic development.

The EU has developed an unprecedented mix of civilian and military instruments that should ensure that it will remain a distinctive actor on the world stage in the future. It also has the capacity to support the UN Peacebuilding Commission in post-conflict situations. The challenge for the future for the CFSP/ESDP in the EU lies in bringing together such a disparate group of states to develop a strategic approach that can be agreed on by all members. This should not be exclusively directed towards improving military capabilities, but should continue to retain the fundamental ethos of the EU as a civilian power committed to the principles of the UN and multilateralism in addressing security issues.

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<sup>176</sup> Frédéric Charillon, "The EU as a Security Regime," *European Foreign Affairs Review* 10:4 (2005): 525.

# The Rise of the Gendarmes? What Really Happened in Holland

Michiel de Weger \*

The military and the police share more than 150 years of history.<sup>1</sup> Before the mid-nineteenth century, no country in the world had a police organization like those that are found in modern Western societies today. It is a widely held belief that the civilian police was created to take the task of maintaining public order—particularly in urban areas—out of the hands of the military, because they tended to use excessive violence.<sup>2</sup> As the number of civilian police organizations in Western countries increased over the decades, and as they gained strength and their roles expanded, the military slowly “disappeared” from cities, and from public life in general. The police were “emancipated” from the military. This process is still going on, and can be expected to continue in the foreseeable future.

Gendarme forces are a fascinating phenomenon, in that they act as intermediaries between regular, civilian police forces and the military. A legacy of the Napoleonic occupation of half of the European continent and the period of colonization, this kind of military police force is found in many countries. The following countries have gendarme forces with 4,000 or more personnel: Algeria, Argentina, Austria, Cameroon, Canada, Chile, France, Italy, Ivory Coast, Morocco, the Netherlands, Portugal, Romania, Senegal, Spain, Chad, Tunisia, Turkey, and Venezuela.<sup>3</sup> Studying military police

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\* Dr. Michiel de Weger is a researcher at the Royal Netherlands Defense Academy. He can be reached at MJ.d.Weger@nlda.nl.

<sup>1</sup> See, for example, Clive Emsley, *Gendarmes and the State in Nineteenth-Century Europe* (Oxford: Oxford University Press, 1999); David Adams, “Internal Military Intervention in the United States,” *Journal of Peace Research* 32:2 (1995): 197–211; Peter J. Rowe and Christopher J. Whelan, eds., *Military Intervention in Democratic Societies* (London: Croom Helm, 1985); Cyrille Fijnaut, *Opdat de Macht een Toevlucht Zij?: Een Historische Studie van het Politieapparaat als een Politieke Instelling* (Arnhem: Gouda Quint, 1979); David E. Engdahl, “Soldiers, Riots, and Revolution: The Law and History of Military Troops,” *Iowa Law Review* 57:1 (October 1971): 1–73; and David H. Bayley, “The Police and Political Development in Europe,” in *The Formation of National States in Western Europe*, ed. Charles Tilley (Princeton, NJ: Princeton University Press, 1975), 328–79.

<sup>2</sup> See Larry L. Watts, “Whose Professionalism?: Separating the Institutional Roles of the Military and Police” (Camberley: Conflict Studies Research Centre, November 2001); Philip Rawlings, “The Idea of Policing: A History,” *Policing and Society* 5 (1995): 129–49; Robert T. Sigler and David J. King, “Colonial Policing and Control of Movements for Independence,” *Policing and Society* 3 (1992): 13–22; William W. Miller, “Party Politics, Class Interest, and Reform of the Police 1829–56,” *Police Studies* (1987): 42–60; James H. Auten, “The Paramilitary Model of Police and Police Professionalism,” *Police Studies* 4 (1981): 67–78; and Clive Emsley, *Policing and its Context, 1750–1870* (London: Macmillan, 1983).

<sup>3</sup> Cees N.J. Neisingh, “Zusterkorpsen van de Koninklijke Marechaussee,” *Armex* (February 1998): 22–25.

in these countries can provide valuable insight into their national “security complexes.”<sup>4</sup>

What do we know about the role and function of gendarme forces? Relatively little scientific attention has been paid to these hard-to-understand military police organizations. There is little literature on their tasks; on how they relate to military and civilian authorities and cooperative partners; their (dis)similarities with the police and the military; their (colonial) history and current challenges; or on their role in domestic security and peacekeeping operations abroad. Many scholars have addressed individual, national gendarme forces,<sup>5</sup> but few of these studies involve either international comparison or theory.

The aim of this article is to improve our theoretical understanding of gendarme forces. To this end, I first describe what the literature tells us about their function. I compare this to the gendarmerie with which I am most familiar, the Royal Marechaussee in the Netherlands. After summarizing the findings of a study of the Royal Marechaussee, I advance several original hypotheses regarding gendarme forces and make a number of suggestions for further research.

### Some Thoughts from the Literature

The scholarly literature on policing offers a broad array of seemingly unrelated remarks or theses about gendarmerie or, as these entities are often called, paramilitary organizations. Writing about the recent history of developing nations, Janowitz states that the growth of paramilitary forces “contributes to regime stability, because of the increased resources at the disposal of the groups in power.” These forces are “instruments for controlling unrest and mob action,” for the “continuous task of policing the potentially disruptive groupings of resistance or opposition to the central regime – regional, religious, or ethnic minorities who feel excluded from the existing political arrangements.” According to Janowitz, the growth of paramilitary units is a worldwide trend.<sup>6</sup>

Deflem states that police institutions tend to become aligned (or re-aligned) with the military during periods of war. Policing tasks expand to include new tasks inti-

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<sup>4</sup> A term used in Leo W. J. C. Huberts, *Blinde Vlekken in de Politiepraktijk en de Politiewetenschap – Over Politie, Wetenschap, Macht, Beleid, Integriteit en Communicatie* (Arnhem: Gouda Quint, 1998).

<sup>5</sup> For instance, see W. van den Hoek, *De Geschiedenis van het Wapen der Koninklijke Marechaussee* (Buren: Museum der Koninklijke Marechaussee, 1990); Hubert Haenel, René Pichon, and Richard Lizurey, *La Gendarmerie* (Paris: Presses Universitaires, 1983); the special issue of *Les Cahiers de la Sécurité Intérieure* (no. 11, 1992) which contains chapters on (historical) gendarmerie in Brazil, Canada, Chile, France and Spain; Marleen Easton, *De Demilitarisering van de Rijkswacht* (Brussels: VUB Press, 2001); and Adrianus Meliala, “Police as Military: Indonesia’s Experience,” *Policing: An International Journal of Police Strategies and Management* 24:3 (2001): 420–31.

<sup>6</sup> Morris Janowitz, *Military Institutions and Coercion in Developing Nations* (Chicago: University of Chicago Press, 1977), 7, 41, 45.

mately related to the war effort, and police forces often receive new and improved equipment, personnel, and budgets. All of these changes are rescinded once peace has been established.<sup>7</sup> As intermediaries between the regular police and the military, gendarmes are the most likely candidates for such processes of alignment and separation.

Hills paints a similar picture of police forces during low-intensity conflicts. While normal police functions nearly cease, the focus reverts to the paramilitary, regulatory (i.e., border control), and representative components of policing functions. After a conflict has ended, the reconstruction of the police becomes a priority, “partly because it can neutralize violence or military activities comparatively cheaply.”<sup>8</sup>

Writing about the utility of the French *Gendarmerie*, the Italian *Carabinieri*, and similar forces in peacekeeping operations, Schmidl contends that, because of their tasks at home, these organizations should be regarded as police forces rather than as gendarme or paramilitary forces, even though they were created in the nineteenth century to fill the same security gap at home that they currently fill in operations abroad.<sup>9</sup>

### *Lutterbeck*

Derek Lutterbeck, a researcher at the Geneva Centre for Security Policy, is probably the most interesting author on the position of gendarme forces within the present security environment. His doctoral thesis and his article on the “rise of the gendarmes,” which is based on his thesis, contain many ideas about the role of these forces in national and international security.<sup>10</sup>

In the article, Lutterbeck refers to the growth in numbers of personnel and equipment within gendarme forces, as well as to their relevance for current security challenges. Lutterbeck specifically identifies border patrol and international peacekeeping operations as the main areas of growth, presenting statistics from the gendarmeries (and other national security forces) of various countries, covering more than a decade. Between 1989 and 2000, the German Federal Border Police doubled in personnel size (by way of comparison, the number of state police in Germany grew by 4 percent between 1990 and 1997), and its budget nearly tripled. The number of personnel in the Austrian gendarmerie increased by one-third between 1990 and 2000, and the budget increased by two-thirds (the Austrian Federal Police, in contrast, remained constant in size and received a budget increase of only 12 percent). In Italy, the budget of the

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<sup>7</sup> Mathieu Deflem, *Policing World Society: Historical Foundations of International Police Cooperation* (Oxford: Oxford University Press, 2002), 120.

<sup>8</sup> Alice Hills, “Policing, Enforcement and Low Intensity Conflict,” *Policing and Society* 7:4 (1997): 291–308.

<sup>9</sup> Erwin Schmidl, “Police Functions in Police Operations,” in *Policing the New World Disorder: Peace Operations and Public Security*, ed. Robert B. Oakley, Michael J. Dziedzic, and Eliot M. Goldberg (Washington, D.C.: National Defense University Press, 1998), 40.

<sup>10</sup> Lutterbeck’s 2003 thesis in political science has apparently never been published commercially, and is therefore available only on loan from the Graduate Institute of International Studies in Geneva. The article that draws on the ideas set forth in the dissertation is: Derek Lutterbeck, “Between the Police and Military: The New Security Agenda and the Rise of the Gendarmeries,” *Cooperation and Conflict* 39:1 (2004): 45–68.



*Guardia di Finanza* tripled between 1989 and 2000 (the budget of the State Police only doubled), while its naval services gained 45 percent more personnel. Between 1990 and 2000, the number of boats and aircraft (helicopters and airplanes) in the naval services of the Spanish *Guardia Civil* increased six-fold, and doubled for its air services. The overall personnel size of this force grew by only about 15 percent, but its budget increased by 50 percent. The U.S. Border Patrol doubled its personnel between 1990 and 2001.<sup>11</sup>

Against this background of the growing scale and importance of gendarmerie organizations, Lutterbeck advances the following theses concerning the historical development of gendarme forces:

- “With the emergence of the modern nation-state, the armed forces have gradually been removed from the state’s domestic sphere.”<sup>12</sup>
- “Over time, all of these forces, or their descendants, have undergone a process of ‘demilitarisation,’ in that their military characteristics have been attenuated and their links to the armed forces severed.”<sup>13</sup>
- “The gendarmerie is usually responsible for maintaining law and order in rural areas ...[its] duties tend to include those types of threats or situations which are characterised by a higher degree of hostility or ‘instability’ than ‘ordinary’ policing usually involves ... they are also often associated with authoritarian or repressive tendencies, and seen as an at least potential threat to civil liberties.”<sup>14</sup>
- “The main driving force behind this development has been a growing concern with various transnational challenges, ranging from irregular migration and drug trafficking to international terrorism, and the perceived need to upgrade state borders and close them to these ‘undesirables.’”<sup>15</sup>
- “In particular the task of monitoring green (i.e., land) and blue (sea) borders require heavier equipment than civilian-style police forces usually have, such as airplanes, helicopters, and high-speed patrol boats.”<sup>16</sup>
- “Typical internal security tasks arising in peace-building missions, such as crowd control, combating organised crime, or protecting refugees, of course require policing skills and equipment. ... On the other hand, given the often high level of instability in which such operations unfold ... the more robust nature of gendarmerie or paramilitary forces, and their ability to operate in hostile environments is also seen as a crucial asset. ... The growing popularity

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<sup>11</sup> Lutterbeck, “Between the Police and Military,” 52–57.

<sup>12</sup> *Ibid.*, 46–47.

<sup>13</sup> *Ibid.*, 47.

<sup>14</sup> *Ibid.*, 50.

<sup>15</sup> *Ibid.*, 59.

<sup>16</sup> *Idem.*

of police forces with military status in peace-keeping missions is also related to their dual dependency and thus their interoperability.”<sup>17</sup>

- “As internal and external security agendas, or the realms of crime and war, continue to converge ... it can be assumed that gendarmerie or paramilitary forces will further gain in importance in years to come.”<sup>18</sup>
- “As the rise of gendarmeries points to a convergence or de-differentiation of police and military functions and thus a reversal of one of the major achievements of the modern nation-state, this development also raises important political and ethical questions which have to be addressed in the years to come.”<sup>19</sup>

In his dissertation, Lutterbeck concludes that, during the 1990s, there was a trend towards semi-military border policing, in many cases involving the gendarme forces, while the task of border policing was deepened to include not only the border itself, but “inward and beyond the line” as well, representing “a shift from line to space and flow.”<sup>20</sup> With the exception of methodology and further elaboration, the introduction of the concept of “deepening” of border control is the only significant difference between Lutterbeck’s article and his doctoral thesis.<sup>21</sup>

## The Royal Marechaussee

Lutterbeck selected his cases by choosing countries within the European Union with the most problematic outer borders (that is, with non-EU neighbors), those sharing borders with countries in and outside of the EU-enlargement agenda, those with both maritime and land borders, and those facing diverse cross-border challenges. How does the development of the Royal Marechaussee compare to descriptions in the international literature on gendarme forces, and particularly with Lutterbeck’s analysis? Which ideas are supported, which do not apply, and which significant elements from the Dutch case are missing in the literature?

A number of general remarks can be made with regard to Lutterbeck’s assertion that gendarme forces have acquired additional personnel and equipment for border patrol and international peacekeeping. First, the Netherlands was not among the cases that Lutterbeck addressed, probably because it has no external EU borders and because it shares no borders with countries on or outside the EU enlargement agenda. Although this is true from a classical, geographical perspective, it neglects the fact that many trans-border security challenges arise at harbors and airports. The Netherlands has one of the busiest ports in the world (Rotterdam) and the fourth-largest airport in Europe

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<sup>17</sup> Ibid., 62.

<sup>18</sup> Ibid., 63.

<sup>19</sup> Ibid., 64.

<sup>20</sup> Derek Lutterbeck, *The Fortress Walls: Policing the EU’s External Borders, 1990–2001* (Geneva: Graduate Institute of International Studies, University of Geneva, 2003), 27–28.

<sup>21</sup> Ibid., 208–12.

(Schiphol Amsterdam). The Dutch border is also the outer border of the EU/Schengen Agreement region for passengers and goods that enter there.

Second, although Lutterbeck makes no mention of other tasks, gendarme forces in Europe have many other tasks in addition to border patrol and international operations. Policing the military is another traditional domain of gendarme forces. This task became less significant with the downsizing of Western defense forces after the end of the Cold War. Any growth in the size of the gendarmerie is therefore likely to reflect growth in other tasks that compensated for the many jobs that were lost when the task of policing the military was relinquished.

Third, Lutterbeck describes the growth of gendarme forces, but fails to relate these developments consistently and thoroughly to the development (number of personnel and budget) of the rest of the military and all civilian police services. In the case of Germany, Lutterbeck compares the budgets of the *Bundesgrenzschutz* and the military, as well as the personnel numbers of the *Bundesgrenzschutz* and the *Länder* police forces.<sup>22</sup> For Austria, he makes similar comparisons between the Federal Gendarmerie and the Federal Police and between the Federal Gendarmerie and the military.<sup>23</sup> In Spain, the comparisons he draws are between the *Guardia Civil* and the National Police, and between the *Guardia Civil* and the military.<sup>24</sup> For Hungary and Poland, however, all three aspects were used for comparisons between the Border Guard, police, and armed forces.<sup>25</sup> For Italy, Lutterbeck states that the Navy was downsized by 30 percent while the Coast Guard doubled in size, but he fails to mention the criteria that were used for this comparison. With regard to budget, he compares the *Guardia di Finanza*, the State Police, the *Carabinieri* and the military.<sup>26</sup>

Fourth, Lutterbeck's comparisons are limited to a fifteen-year period beginning in the early 1990s. This makes more sense for a project based in the perspective of international relations (the end of the Cold War) than in the framework of domestic security. Lutterbeck fails to put the presumed rise of these forces into the context of developments in domestic security. In the 1970s, the relatively calm period that had come about with the end of the Second World War came to an end, and criminality and public disorder grew significantly in many Western European nations.

Fifth, Lutterbeck presents no statistics on the numerical growth of the peacekeeping tasks taken on by individual gendarme forces. He elaborates only on the international significance of gendarme forces for these operations. Although he mentions the police contributions of many countries' UN operations, he fails to list the number of gendarmes that were actually sent abroad. The significance of this task for the gendarmes remains open to question. Furthermore, Lutterbeck does not examine the numerical development of other tasks of the gendarmes.

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<sup>22</sup> Ibid., 40.

<sup>23</sup> Ibid., 82.

<sup>24</sup> Ibid., 179–80.

<sup>25</sup> Ibid., 191.

<sup>26</sup> Ibid., 130, 142–43.

In the following sections, I analyze the development of the Royal Marechaussee, including aspects of its work that were omitted by Lutterbeck in his study of other European gendarmerie organizations. First, I compare the growth of the Royal Marechaussee to the numerical development of other police organizations and the military in the Netherlands since 1970. These will be matched with population and economic growth. The second section focuses on the various tasks of the Royal Marechaussee, charting their development since the late 1980s. This information reveals that most of its growth can be explained by two new tasks: policing civilian airports and the mobile monitoring of aliens. The third section investigates the question of why tasks are assigned to the gendarmes by considering the new tasks that were assigned to the Dutch gendarmerie. How and why did the Royal Marechaussee acquire responsibility for policing airports? Why did it acquire responsibility for the mobile monitoring of aliens when the Netherlands stopped patrolling its eastern border as a result of the Schengen Treaty? The fourth section is devoted to international police missions. It compares the significance of this task to the Dutch civilian police, the Royal Marechaussee, and the military. I also discuss how the Royal Marechaussee's national tasks relate to its work in international peacekeeping operations.

### *The Dutch Case in Numbers*

The year 1970 provides an interesting starting point for our investigation. With the Cold War fully developed and post-war internal security having stabilized, Western European countries encountered several waves of internal and external security developments. In the classical domain of the military, the 1970s were the era of *détente* and Vietnam, causing a major change in public attitudes towards the armed forces. Although the Cold War intensified during the 1980s, the decade ended with the disintegration of the Soviet bloc when the Berlin Wall came tumbling down. In the 1990s, the likelihood of full-scale war in Europe diminished, and the military became increasingly involved in expeditionary missions outside the NATO treaty area. Peace-support operations were carried out under the umbrella of the United Nations and NATO.

From 1970 onward, the internal security environment in Western countries like the Netherlands also changed significantly.<sup>27</sup> The early 1970s saw the emergence of terrorism and other forms of political extremism. Although these problems receded in the 1980s and 1990s, they re-emerged in the early years of the twenty-first century, although they now originate from Islamist groups rather than from radical left-wing factions. Throughout the 1970s, leftist students challenged the political system. In the Netherlands, large squatter movements emerged. Both of these developments posed serious challenges to public order in larger urban areas. Drugs and immigration also emerged as serious sources of criminality during the 1970s.

All of these internal security issues continued well into the 1980s in the Netherlands, with only the squatters' issue being largely resolved. The early 1990s saw an in-

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<sup>27</sup> See Michael Wintle, "Policing the Liberal State in the Netherlands: The Historical Context of the Current Reorganization of the Dutch Police," *Policing and Society* 6:3 (1996): 181–97.

crease in the pace of globalization, which had the unfavorable side effects of increasing illegal immigration and importing organized crime. Petty crime also rose significantly. In the late 1990s and the early 2000s, an increase in the number of minor public-order incidents and citizen harassment contributed to the problem.

What was the influence of these developments on the size and budgets of military and police organizations in Western countries? One would expect that the numbers and budgets of the military throughout Western Europe would have decreased since the early 1990s. Police organizations can be expected to have increased steadily since the early 1970s. The following section examines developments in the Netherlands in more detail.

Figure 1 shows the development of the absolute numbers of personnel of the Royal Marechaussee, the rest of the Dutch military, and Dutch civilian police organizations.

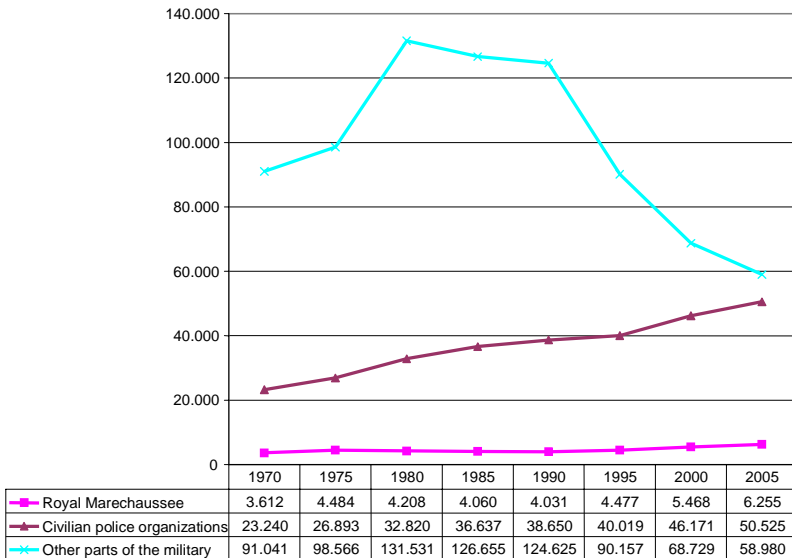


Figure 1: Security Forces' Personnel Numbers.<sup>28</sup>

<sup>28</sup> Statistics drawn from Statistics Netherlands, annual budgets of the central government, annual reports from the KLPD, and the National Police Institute; N. Groeneweg and Anne Hallema, *Van Nachtwacht Tot Computermacht: Vijftig Eeuwen Politie en Justitie* (Zaltbommel: Europese Bibliotheek, 1976); and Frits Vlek, *Hoe Sterk is de Politie: Een Internationaal Vergelijkend Onderzoek Naar de Omvang en Grondslagen van de Sterkte en Budgetten van de Politie in België, BRD/Nordrhein-Westfalen, BRD/Niedersachsen, Denemarken, Engeland+Wales en Nederland* (The Hague: Ministerie Van Binnenlandse Zaken, 1994). Military personnel figures include civilian personnel.

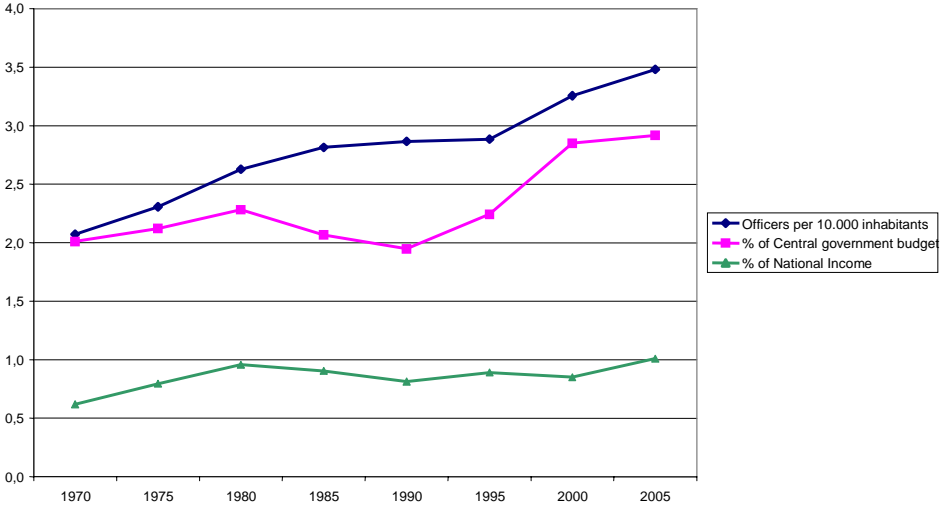


Figure 2: Development of the Dutch Police.

From Figure 1, we can conclude that the size of the Dutch military has decreased considerably since 1990, while the numbers of personnel in the civilian police have risen steadily since the early 1970s, as expected.<sup>29</sup> While the former can be explained by the diminution in the military threat brought about by the end of the Cold War, the latter requires further consideration. The numerical strength of a country’s police force is probably linked to the size of its population, wealth, central government spending, and internal security challenges.<sup>30</sup> The first three factors are obviously easier to measure than is the fourth. Figure 2 shows the link between the size of the Dutch police and these three factors.

From Figure 2, we can conclude that the rate of growth of the Dutch police—civilian and military combined—did indeed exceed that of the population. Since the early 1970s, the budget for these services increased as a percentage of central government spending, with the cutbacks of the 1980s being completely undone between 1990 and 1995. They have been increasing ever since; the number of police officers did not de-

<sup>29</sup> Before the 1993 police reorganization, the Netherlands featured the nationally controlled *Rijkspolitie* and dozens of municipal *Gemeentepolitie* forces. These were replaced by the twenty-five regional *Regiopolitie* forces and the national *Korps Landelijke Politie Diensten* (KLPD).

<sup>30</sup> In the Netherlands, all police forces are paid from the central governmental budget. This currently applies to the regional police, as it had for the municipal police before the reorganization of 1993.

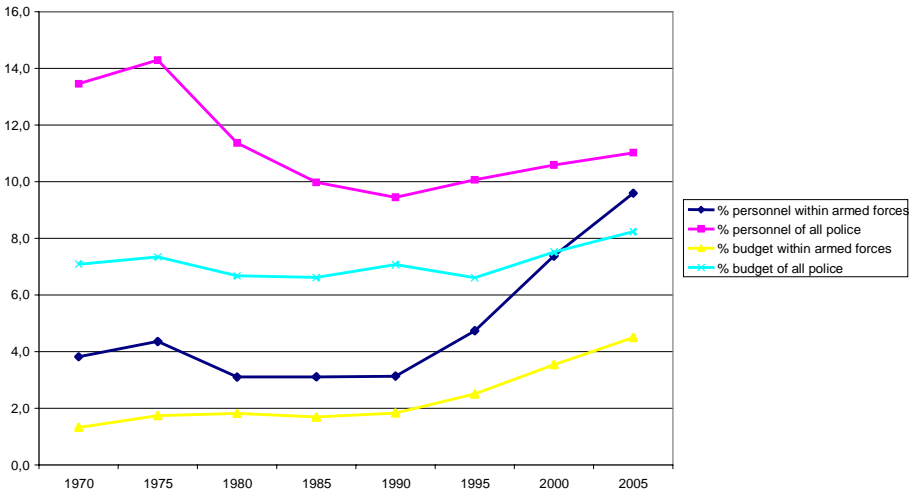


Figure 3: Royal Marechaussee between Police and Armed Forces.<sup>31</sup>

crease with the cutbacks. The police budget nearly doubled in the 1970s as a percentage of national income. After a period of decline throughout the 1980s, it has been increasing ever since.

In general, as could be expected from the increase in the number of internal security challenges facing nations in Western Europe (whether real or perceived), the police force in the Netherlands has expanded considerably since the 1960s. In this respect, the Dutch case is likely to resemble the experience of other Western European countries. But did the Royal Marechaussee (the Dutch gendarmerie) grow as Lutterbeck's conclusions would lead us expect? As shown in Figure 1, it did grow in absolute terms, but not as much as the civilian police did. The development of the intermediary position of the Royal Marechaussee is shown in Figure 3 in more detail.

As was suggested by Figure 1, Figure 3 shows more clearly that the Royal Marechaussee has become a far more important part of the Dutch armed forces since about 1990. Combining the personnel and budgetary growth of the former with the simultaneous significant reductions of the latter, the Royal Marechaussee doubled (budget) or tripled (personnel size) in relative importance. Before 1990, it had been a more stable factor within the Dutch armed forces. Relating the Royal Marechaussee to the size of the civilian police presents a different picture. The significance of the Marechaussee within the Dutch police system actually decreased between 1975 and 1990, although this trend has reversed dramatically since then. At present, however, it is less important than it was in 1970. This shows that Lutterbeck is correct about "the rise of the gendarmes," but that his theory only applies for the last fifteen years or so. At least in the

<sup>31</sup> Military personnel figures include civilian personnel of the Ministry of Defense.

Netherlands, the longer-term trend still seems to be that the armed forces, including the gendarmerie, are slowly being pushed to the sidelines of internal security matters.

Even with all of the above-mentioned changes, the budgets for these organizations are far more stable than the personnel percentages. One may question how the Royal Marechaussee managed to retain its proportion of the total police budget while its position in terms of personnel decreased. Another striking observation is that the size of the Marechaussee increased significantly during the 1990s. This increase occurred despite the downsizing of the Dutch armed forces (which decreased the number of personnel that were needed to police the military), the loss of conscripts in its own ranks, and the elimination of its task of patrolling the German border (Dutch–Belgian border controls had been eliminated in the 1970s).

What really happened in Holland? Does Lutterbeck's explanation for the rise of the gendarmes—increasing border patrol activities and participation in international policing operations (UN or NATO)—apply to the Royal Marechaussee?

### *Tasks of the Royal Marechaussee*

A brief overview of the two centuries of history of the Royal Marechaussee seems to be useful here. Border control has traditionally been one of its three primary tasks, in addition to policing the military and assisting civilian authorities in managing public order and fighting crime in situations that exceeded the capacity of the civilian police. The Royal Marechaussee was the successor to the French gendarmerie. It was established in 1814 when the Netherlands regained independence after the Napoleonic occupation. The tasks of the Royal Marechaussee changed little until after the Second World War. Having experienced the horrors of the German occupation, including the militarization of the Dutch civilian police organizations, the Dutch government decided to place its police organization more firmly under civilian control than had been the case before the war.<sup>32</sup> It created a national civilian police force, the *Rijkspolitie*, which took precedence over the Royal Marechaussee (followed by the rest of the armed forces) to assist civilian authorities when the municipal police organizations were unable to handle security situations. Moreover, the *Rijkspolitie* acquired jurisdiction over many rural municipalities, including those located in border and garrison areas where the Royal Marechaussee was, in effect, the only police organization present, due to its tasks of controlling the border and policing the military.

This new position of the Royal Marechaussee at the periphery of Dutch police responsibility changed little until the 1970s. As described above, like many Western European countries, the Netherlands in the 1970s was faced with the first wave of new challenges to internal security: terrorism, political protests, drugs, and illegal immigration, as well as the uniquely Dutch phenomenon of squatters. In the 1970s and 1980s, the Royal Marechaussee assisted the civilian police on many occasions. It also ac-

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<sup>32</sup> Jos Smeets, *De Geschiedenis van de Nederlandse Politie, Verdeeldheid en Eenheid in het Rijkspolitieapparaat* (Amsterdam: Boom, 2007), 261–410.



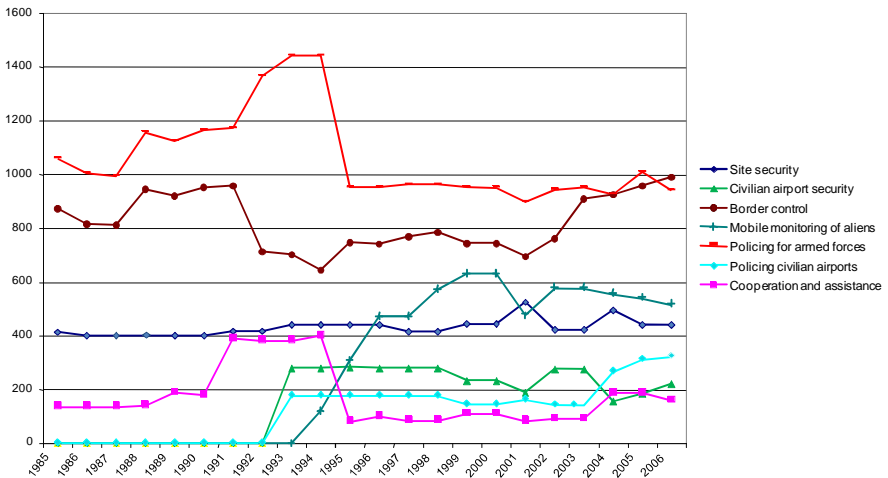


Figure 4: Development of Tasks of the Royal Marechaussee.<sup>33</sup>

quired a number of “semi-permanent” tasks: protecting diplomatic establishments, assisting municipal police forces in The Hague and Amsterdam, and protecting civilian aviation at Schiphol Amsterdam Airport.

What were the tasks of the Royal Marechaussee in the late 1980s? How many resources did it apply to each task? Most importantly, how have these tasks developed since then? Figure 4 shows the extent to which Lutterbeck’s assertions linking the growth of gendarme forces to the growth of border control and international operations are applicable to the Netherlands. The figure lists all of the tasks to which the Royal Marechaussee assigned more than one hundred of its personnel on a regular basis. Peacekeeping is not among them.<sup>34</sup>

Four conclusions can be drawn from this body of data. First, policing the military lost much of its significance during the 1990s, as could be expected from the end of conscription and the cutbacks in various parts of the Dutch armed forces. Second, two new tasks—airport policing (consisting of more general policing activities and airport security, particularly for high-risk airline companies) and the mobile monitoring of aliens—can largely explain the growth of the Royal Marechaussee. These tasks pro-

<sup>33</sup> Data drawn from budgets of the central government, planning documents, and statistics provided by the Royal Marechaussee.

<sup>34</sup> International operations involved fewer than one hundred officers; they are discussed in the next section. Site security consists of protecting military installations, the palaces of the royal family, and the home of the prime minister of the Netherlands.

vided approximately one thousand new jobs, completely offsetting the loss of half of its capacity for policing the armed forces. To find personnel for these new tasks, the Royal Marechaussee apparently mobilized internal resources from groups dedicated to cooperation/assistance and border control. Third, although the border control unit did increase by between two hundred and four hundred individuals since the early 1990s, this increase cannot fully explain the growth of the entire organization by more than two thousand jobs, as depicted in Figure 1. This fact—particularly when considered alongside the fact that international operations occupied fewer than one hundred Dutch gendarmes—indicates that Lutterbeck’s explanation for the rise of the gendarmes does not apply to the Netherlands.

Fourth, policing the armed forces (and providing security at military facilities) have become much less important tasks for the Royal Marechaussee relative to its other civilian tasks. Since the early 1990s, its identity has shifted away from that of the police organization responsible for the armed forces and border control toward being an organization that is oriented primarily toward the domains of domestic security and civilian policing. We can therefore assume that the rise of the gendarmes—and not just in the Netherlands—might also be related to domestic security too, instead of only to developments in external security (e.g., policing abroad and border control), as Lutterbeck suggests.

### *Explanations for Two New Tasks*

To understand the rise of the gendarmes, it is very important to establish why new tasks have been assigned to them. Why did the Royal Marechaussee acquire the tasks that made it grow so spectacularly?<sup>35</sup> First, I discuss alternative explanations for the involvement of military forces in internal security. I then describe how and why the Royal Marechaussee acquired the task of policing airports, and how it acquired the new task of conducting mobile monitoring of aliens. Finally, I return to the relationship between the gendarmes and internal security.

Literature from the Netherlands provides many explanations for decisions made since the Second World War whose effect has been to assign specific internal security tasks to the military instead of to civilian security organizations. Twelve explanations can be identified in this Dutch scholarship:

- The poor state of civilian alternatives to the military organization
- The fact that the national government has command over military units, while it can not command the (local) civilian police forces
- The attitude of military personnel is different from that of personnel in civilian security organizations
- The availability of military units, whether in terms of either structural capacity or the greater ability to send units to the scene quickly

- Precedents for the performance of internal security tasks by the military
- The expertise of military units
- The fact that the military has more suitable equipment for this new task
- Administrative considerations, particularly with regard to relations between public organizations (e.g., maintaining central governmental control over executive organizations, financial considerations, preventing executive organizations from becoming large enough to dominate specific security domains)
- The political will to maintain the actual size of military units (especially with regard to the Royal Marechaussee as a strategic reserve to the civilian police)
- The fact that military units in general, and the Royal Marechaussee in particular, have both military and civilian tasks, meaning that they are best suited for tasks that fall between the traditional domains of the military and the police
- The exceptionality of the situations (internal security crises) that exceed the capacity of civilian organizations
- The positive attitude of the military leadership toward taking on more internal security tasks.<sup>36</sup>

Despite producing such an extensive list, the Dutch literature fails to explain why the Dutch government assigned extra internal security tasks to the military. The literature on this question is quite scant, and is often not scientific. My doctoral thesis was meant to fill this gap. It contained two case studies relevant to this article. I sought explanations for why the Royal Marechaussee was assigned the tasks of policing at civilian airports and mobile monitoring of aliens. Below I will describe the cases and the results of my research.

In the late 1980s Schiphol Amsterdam Airport was much smaller than it is now, and responsibility for security was held by the national *Rijkspolitie*. Several other security organizations were working at the airport as well, including the apparatus of the private company that operated the airport (along with a number of private security firms that it had contracted to assist); the customs service; private security firms assisting the *Rijkspolitie*; the municipal police of Haarlemmermeer; and the Royal Marechaussee. The Royal Marechaussee had two tasks: policing the border and assisting the *Rijkspolitie*. Since the early 1970s, the Royal Marechaussee had been providing extra security on board high-risk flights to and from Schiphol, and had been deploying heavily-armed teams to protect the activities of the airlines at the airport itself. By the late 1980s these tasks had begun to acquire an increasingly permanent character. Formally, these tasks fell under the category of assisting the *Rijkspolitie*. After two decades,

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<sup>35</sup> This section is based on my doctoral thesis on the internal security tasks of the Dutch armed forces. See Michiel de Weger, *De Binnenlandse Veiligheidstaken van de Nederlandse Krijgsmacht* (Assen: Van Gorcum, 2006); includes summary in English.

<sup>36</sup> *Ibid.*

however, the task of protecting civilian airlines was increasingly regarded as one of the Royal Marechaussee's own tasks.

The option to assign responsibility for all policing at Schiphol—and five other civilian airports—to the Royal Marechaussee first emerged in the late 1980s, and it became a topic of increasing discussion in government. Three factors contributed to the likelihood that the Royal Marechaussee would get the task it wanted.

First, the government was pushing for cutbacks in public-sector spending. Reducing the number of security organizations operating at Schiphol would reduce overhead. Transferring border-policing responsibility to the *Rijkspolitie* was considered a less viable option than transferring all other policing responsibilities at airports to the Royal Marechaussee.

A second, more important factor was the threat of significant personnel reductions at the Royal Marechaussee due to radical cutbacks in the size of the Dutch armed forces after the end of the Cold War, which subsequently reduced the number of personnel that the Royal Marechaussee needed for policing the military. Conscription had ended in all branches of the military, including the Royal Marechaussee. In addition, the Royal Marechaussee was about to relinquish all its policing tasks at the Dutch-German border because of the Schengen Treaty. In government, there was rather broad consensus that the size of the Royal Marechaussee should be maintained, in order to preserve its value as a strategic reserve of the central government during crisis. The Royal Marechaussee had proven its value in the 1980s – e.g., during squatters' riots, by controlling illegal immigration, and by its role in protecting against terrorist and other extremist actions on diplomatic premises and at Schiphol. The Dutch government was actively considering a host of possible new tasks for the Royal Marechaussee, including policing at Schiphol.

A third factor can also help to explain why the latter option was chosen. The *Ge-meentepolitie* and *Rijkspolitie* were to be reorganized into regional police organizations (which would fall under the control of the mayors and the Public Prosecution Service), and a national police-services organization (*Korps Landelijke Politiediensten* or KLPD), which would be controlled by the central government (Ministry of Justice).<sup>37</sup> Most importantly, the mayors had negotiated that the KLPD would have no executive policing tasks, thus representing no competition for the regional police forces. This meant that the national government had three options:

- Responsibility for policing at Schiphol would be assigned to one of the newly formed regional police forces
- Schiphol would be assigned to KLPD, and thereby form an exception within the design of the new police system
- The Royal Marechaussee would step in.

The two regional police organizations adjacent to Schiphol were Amsterdam-Amstelland and Kennemerland. The latter was considered too small and “provincial” to

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<sup>37</sup> Control was transferred to the Ministry of the Interior some years later.

handle affairs at the rapidly growing airport. In contrast, Amsterdam-Amstelland was likely to become too dominant among the regional police organizations were it to acquire responsibility for policing at the airport. Although the Amsterdam municipal government lobbied heavily for this option, the cabinet rejected it. The Ministry of Defense, the Royal Marechaussee, and the Ministry of the Interior pressured the Ministry of Justice to opt for handing responsibility for airport policing from the *Rijkspolitie* to the Royal Marechaussee. The Minister of Justice, who was then still responsible for the *Rijkspolitie*, eventually took the defensive step of choosing the Royal Marechaussee. Rather than having to share control over airport policing with the Ministry of the Interior (which would have placed it in the hands of the KLPD), he chose to transfer the task to the Royal Marechaussee, which he could control directly. When the Ministry of Defense promised to cover the additional cost of the expected personnel increases that the Royal Marechaussee would need for policing the rapidly growing airport, the Ministry of Justice also gained financially from the decision.

A few years later, in 1994, the Dutch government decided rather suddenly to assign another “new” task to the Royal Marechaussee: mobile monitoring of aliens. With national parliamentary elections only a few months away, the cabinet, which was led by the Christian Democrats, took dramatic steps to curb the inflow of illegal immigrants fleeing conflict situations, primarily in the Balkans, Iraq, and Somalia. Because the Schengen Treaty had lifted all formal border controls along the long Dutch-German border (the Benelux Treaties had suspended controls along the Belgian border in the mid-1970s), the government desperately wanted action. The Royal Marechaussee proposed a solution: it would form mobile units to check the passports and immigration documents of aliens in areas directly inside the border. The proposal stated that the Marechaussee could have five hundred officers in the field within months. Cutbacks in military policing and the abandonment of all posts at the eastern border assured the availability of the personnel that they needed to make this offer. The cabinet accepted the proposal within one week. These two factors—time pressure and the availability of resources—explain why the task was assigned to the Royal Marechaussee.

In one sense, the mobile monitoring of aliens was not a new task, but rather an extension of their responsibility for border control. In Lutterbeck’s terminology, it represented a “deepening” of border control. In another sense, however, it was indeed an entirely new type of activity.

First, although the work itself—checking the passports of aliens—was not new to the officers of the Royal Marechaussee, the border-control posts had been abandoned. The task would now be performed between the border and the first Dutch highway approach or train station. Instead of fixed posts, mobile teams would choose the sites for controlling border traffic. Second, the mobile monitoring of aliens was also a new task in that its initiation required a cabinet decision. The effects of the Schengen Treaty, including the scaling down of Royal Marechaussee operations, had been discussed in parliament since the late 1980s. Many other tasks for the Royal Marechaussee that could replace their deployment on border control operations had been discussed. As early as 1988, the legislature had suggested the possibility of introducing “flying brigades.” Third, after the border-patrol posts were closed in 1991, the two hundred

Marechaussee personnel that had previously staffed these posts were reassigned to work for local, civilian immigration police services in several Dutch cities for three years. This was regarded by many as a new task that the Royal Marechaussee would ideally perform for a long time, and one that could become a regular task in its own right, rather than remaining an auxiliary to the civilian police. After the cabinet made the decision to start mobile monitoring of aliens, the Royal Marechaussee even tried to merge these activities with its new task, but these attempts failed for financial reasons. The two hundred officers were withdrawn. The decision to award responsibility for mobile monitoring of aliens to the Royal Marechaussee met with as much applause as surprise in the legislature. There is another sense in which this shift was something new. Finally, these two tasks—border patrol and mobile monitoring of aliens—were mentioned as separate, distinct activities by the Ministry of Justice, the Ministry of Defense, and the Royal Marechaussee in both internal documents and external publications.

Another factor that can explain why the Royal Marechaussee acquired the task of the mobile monitoring of aliens is related to its position in the Dutch police system. The government had also awarded five hundred extra officer positions to the regional police organizations in border areas. These officers were to monitor aliens residing within their municipalities. Although the government could have assigned mobile monitoring to the regional police forces as well, it did not do so, for fear that local authorities would later assign the additional officers for it to other tasks. The central government, however, could exercise direct control over the Royal Marechaussee, ensuring that alien controls would remain a top priority – an option that proved more attractive. To be precise, responsibility for monitoring aliens rested with the Ministry of Justice. As in the Schiphol case that was discussed above, the Ministry stood to gain more by transferring the task to the Royal Marechaussee than it did by transferring it to the regional police forces, which were controlled by the mayors and which were indirectly on the payroll of the Ministry of the Interior.

In summary, there are five explanations for why the Royal Marechaussee acquired its two most valuable (in terms of personnel growth) tasks:

- Financial considerations
- The desire to maintain the Royal Marechaussee at a sufficient size
- The desire to ensure central governmental control
- Time pressure to begin mobile monitoring of aliens
- The availability of readily deployed resources.

My Ph.D. thesis examined three additional cases in which new internal security tasks were transferred to the military: the creation of the military National Reserve in 1948, the transfer of responsibility for conventional and improvised/terrorist explosives ordnance to the military, and the creation of military anti-terrorist/SWAT teams. Two dominant explanations emerged from all of these cases: the military acquired these tasks because they had personnel available and because these personnel could be controlled directly by the central government. These explanations are consistent with

the conclusions that can be drawn from the cases regarding airport policing and the mobile monitoring of aliens.

Most important for this essay, there are many explanations for the growth of the Royal Marechaussee. It is too superficial to simply point at the proliferation of its tasks; any explanation of the rise of gendarmes must also involve an analysis of how they acquired these tasks in the first place. These decision-making processes are often probably more a result of internal security circumstances, political and administrative processes, and competition with civilian police forces than they are a product of international developments. An awareness of this element is largely missing in Lutterbeck's analysis.

### *International Operations*

This section is devoted to international operations. Lutterbeck states that international peacekeeping missions represent the second main growth area for Europe's gendarmes. This section investigates the accuracy of this claim and examines the significance of this task to the Royal Marechaussee. I will begin with my conclusion: international operations cannot account for a significant portion of the more than two thousand personnel that were added to the Royal Marechaussee since the early 1990s.

Sterrenburg lists the number of full-time equivalents the Royal Marechaussee and Dutch civilian police sent abroad for policing tasks between 1989 and 2002.<sup>38</sup> The Royal Marechaussee sent personnel to eleven missions.<sup>39</sup> Sterrenburg estimates that these operations involved 839 full-time equivalents, at an average of 60 per year. Between 1995 and 2001, the Dutch civilian police sent 42 full-time equivalents abroad, at an average of six per year.<sup>40</sup> In 2003, the Dutch government decided to make one percent of all police personnel (270 persons) available for international policing operations: 240 from the Royal Marechaussee, and 40 from the civilian police.

As was shown in Figure 4 above, the Royal Marechaussee has never sent more than 120 of its personnel abroad in any year since 2002.<sup>41</sup> The Dutch civilian police services have sent even less, while the rest of the Dutch military has sent up to 2,500 of its personnel each year during the last decade. The relatively low numbers sent by the civilian police (40 out of approximately 50,000 civilian police officers in the Netherlands) can be explained by the fact that it is harder to mobilize civilian police officers than military police personnel and that, inside the civilian police culture, participating in such

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<sup>38</sup> Hermen Sterrenburg, *Internationale Vredesmissies en de Nederlandse Politie: Een Verkenning Rond Beheer en Sturing* (Apeldoorn: Nederlandse Politie Academie, 2002).

<sup>39</sup> UNTAG/South Africa, UNAVEM-Angola, UNTAC-Cambodia, the WEU-Danube-mission, UNOMSA-South Africa, UNOMOR-Uganda/Rwanda, UPFM-Mostar, UNIPTF-Bosnia-Herzegovina, UNMIK-Kosovo, MAPE-Albania, and ECPA-Albania.

<sup>40</sup> Sterrenburg, "Internationale Vredesmissies," Annexes 3 and 6. Personnel to support the UN's Rwanda and Yugoslavia tribunals, the South African police and Truth Commission, the Red Cross in Brazil and Macedonia, OSCE-Kosovo, and ECPA-Albania.

<sup>41</sup> Although the Minister of Defense reported to Parliament in 1999 that the Royal Marechaussee had sent an average of 160 personnel abroad per year for peacekeeping missions (Tweede Kamer, vergaderjaar 1999–2000, 26900, nrs. 1–2, 169).

missions is less rewarding in terms of career opportunities than it is in the military.<sup>42</sup> The Royal Marechaussee is also better trained and equipped for this type of operation than are civilian police forces; it has more experience in international environments, and usually accompanies the Dutch military in operations abroad. Nevertheless, it has yet to deliver the 240 officers abroad that the government hopes to see. The Royal Marechaussee is now creating a pool of about 200 officers especially for peacekeeping missions. The international shortage of police officers for UN and NATO operations offers an excellent opportunity for the Royal Marechaussee to deploy more officers in the coming years than it has thus far.<sup>43</sup> Even if the Royal Marechaussee were to deploy 200 officers, it would still be deploying less, proportional to its size, than the rest of the Dutch military. The deployment of 300 would even this balance.

How do the domestic tasks of the Royal Marechaussee compare with its activities abroad? Most operations abroad have involved policing the Dutch military, which is



Figure 5: International Policing Operations.<sup>44</sup>

<sup>42</sup> N. van Delft, “Internationaal Politiewerk: Een Bijzondere Ervaring, Die Niet Altijd Wordt Gewaardeerd,” *Algemeen Politie Blad* 12 (2005): 10–11.

<sup>43</sup> On the shortage of officers see Hans Hovens, “Policing at the Threshold,” Paper for LIPO III (Maastricht: Nederlands Beveiligings Bureau, 2005); Alice Hills, “The Inherent Limits of Military Forces in Policing Peace Operations,” *International Peacekeeping* 8:3 (Autumn 2001): 79–98; and Oakley, *et al.*, *Policing the New World Disorder*.

<sup>44</sup> Statistics provided by the Royal Marechaussee and the Centre for Strategic Studies, Clingendael.



essentially equivalent to the task that it performs at home.<sup>45</sup> With regard to the other operations, most involve training or advising local police; neither of these tasks is performed domestically.<sup>46</sup> In only a few cases did the Royal Marechaussee actually perform executive police tasks similar to those that it performs in the Netherlands. In UNMIK-Kosovo, it maintained public order. In the PCOD-Donau operation, it served as a border police force to uphold the UN embargo. Border patrol was also a task during MFO in Sinai. It is therefore fair to conclude that the Royal Marechaussee has not applied much of the expertise that it has acquired from its various tasks in the Netherlands to its peacekeeping and CIVPOL-operations abroad. Has the Dutch gendarme not made use of opportunities in this field, as Lutterbeck claims other gendarmes have?

## Reflection on Hypotheses

What does the case of the Royal Marechaussee tell us about other hypotheses of Lutterbeck and the comments of other authors regarding the function and historical development of gendarme forces? The conclusions of my own doctoral research support Janowitz's thesis that gendarmes and other military forces are primarily instruments of the central government. The other dominant explanation for the transfer of internal security tasks, however, is that the military sometimes has sufficient personnel available on short notice to handle such internal security challenges as "unrest and mob action." With regard to Janowitz's "continuous task of policing the potentially disruptive groupings of resistance or opposition to the central regime – regional, religious, or ethnic minorities who feel excluded from the existing political arrangements," this has not been a task of the Royal Marechaussee for a very long time. Fortunately, the Netherlands has not been confronted by significant resistance or opposition requiring military action on behalf of the central government. Although the protests and violence of the squatters and South Moluccans in the 1970s were severe infringements on public order and the rule of law, they were local, relatively rare, and geographically dispersed. They certainly did not amount to uprisings, revolts, attempts at revolution or *coups d'état*, nor did they result in resistance movements or the rise of rebellious or lawless regions.

The history of the gendarmerie in the Netherlands offers support for Deflem's thesis that police institutions, including military police, tend to become aligned with the

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<sup>45</sup> This was the Royal Marechaussee's mission in: UNMIS-Sudan, KFOR-Kosovo, PRT-Afghanistan, Enduring Freedom-Afghanistan, NATO Training Mission-Iraq, EUFOR-Bosnia, SFIR-Iraq, UNMIL-Liberia, Task Force Fox-Macedonia, Enduring Freedom-Qatar, ISAF-Afghanistan, UNMEE-Djibouti, Ethiopia and Eritrea, Task Force Harvest-Macedonia, KFOR-Kosovo, Allied Force-Albania, UNIFCYP-Cyprus, SFOR-Bosnia, EFOR-Macedonia, IFOR-former Yugoslavia, Deny Flight-Italy, UNMO-Bosnia, UNPROFOR-former Yugoslavia, Provide Comfort-Iraq, Desert Storm-Iraq, and MFO-Sinai.

<sup>46</sup> These missions include EUBAM-Israel, EUBAM-Rafah/Gaza, EUPM-II-Bosnia, Monitoring-Aceh/Indonesia, EUPOL Kinshasa/ DR Congo, Proxima-Macedonia, NATO Training Mission-Iraq, EUFOR/IPU-Bosnia, EUPM I-Bosnia, OSCE-Macedonia, ISAF-Afghanistan, ECPA-Albania, MAPE-Albania, UNIPTF-Bosnia, WEU-Mostar, UNMIH-Haiti, UNOMSA-South-Africa, UNTAC-Cambodia, UNAVEM-Angola, and UNTAG-Namibia.

military during periods of war. The only war in which the Netherlands has been involved for the last two centuries (since the Belgian war of secession from the Netherlands) was the Second World War. Although it had hoped to remain neutral, as it had during the First World War, the Netherlands was occupied by the German armed forces after five days of fighting. For the Dutch there was therefore simply no time to realign the police with the military; during the military occupation, however, the Germans did overhaul the Dutch police system, making sure that they would be able to control it. This might not be what Deflem had in mind, but it does support his theory.

The case of the Netherlands does not offer an appropriate test for Hills's hypothesis concerning police forces during low-intensity conflicts, as there has not been such a conflict for centuries. On the contrary, the absence of low-intensity conflict does offer support for Schmidl. The Royal Marechaussee is a fine example of a gendarme force that should be regarded as a police force rather than as a true gendarmerie/paramilitary unit, as no significant, geographically concentrated, or protracted lawlessness or public unrest has existed in the Netherlands for at least a century.

The Dutch case offers support for some of Lutterbeck's eight other hypotheses concerning the development of gendarme forces, while it contradicts others. First, the military has not been removed from "the state's domestic sphere." The involvement of the other parts of the military in internal security is currently rather rare. The Royal Marechaussee, however, has not been removed at all. Rather, it has experienced a comeback since the early 1990s. Second, its task of policing the military—both at home and abroad—has expanded slightly in terms of personnel, but it now constitutes a far smaller portion of its work in relative terms. At least in this sense, then, it has demilitarized. Its links to the armed forces have not been severed, however, thereby falsifying this hypothesis of Lutterbeck. Third, the fact that the Royal Marechaussee lost its rural tasks makes it an atypical gendarme force. With its tasks of assisting civilian authorities, protecting civilian aviation, and contributing to anti-terrorist squads, it does, in the words of Lutterbeck, have tasks "which are characterised by a higher degree of hostility or 'instability' than 'ordinary' policing usually involves." Contrary to Lutterbeck, public and political opinion does not associate these with authoritarian or repressive tendencies, nor does it see them as potential threats to civil liberties. Fourth, Lutterbeck's hypothesis that the growth of gendarme forces is due to transnational challenges is at least partially true for the Royal Marechaussee (policing at airports, mobile monitoring of aliens).

The remainder of Lutterbeck's hypotheses can neither be falsified nor proven. The Dutch case involved no expansion of the gendarmerie with airplanes, helicopters, or high-speed patrol boats. The Royal Marechaussee has had two ships for border patrol for decades, and it has no aircraft. As indicated above, the Dutch gendarmerie has yet to become "popular" to deploy abroad, because of its "dual dependency and thus ... interoperability." Finally, whether the Royal Marechaussee will become more important in the years to come remains to be seen, as do the important political and ethical questions that such gains could raise.

## Conclusion

What can be concluded from the discussion above? What does the Dutch case tell us about the development of gendarme forces? Four factors are likely to be dominant in determining the future of the Royal Marechaussee and similar gendarme forces. First, the regular police force is still engaged in the process of emancipating from the military. Because it was created as an alternative, and because it continues to increase in relative strength, there is less need for the military—and gendarmes in particular—to be involved in more regular policing. Second, the development of internal security determines the size of both the gendarmerie and the police. Since the 1990s, anxieties about terrorism and immigration/border control have driven the rise of the gendarmes. Were these issues to fade away, the gendarmerie could be downsized. Because it is an instrument of the central government, the gendarmerie might be directed toward solving new challenges for those that control it. Were internal security challenges within the realm of the regular police to diminish further, civilian police would have more “spare” capacity, allowing further emancipation.<sup>47</sup> Third, political preferences for civilian police might result in “strategic demilitarization” of the gendarmes, overhauling their status as a part of the military and transferring them to civilian control. For longer than fifty years, no country in the Western world seems to have created a military police organization with regular police tasks. On the contrary, the Belgian gendarmerie (*Rijkswacht*) was removed from the military in the 1990s. With the increasing centralization of the civilian police systems in Europe, gendarme forces (or parts thereof) could be included in larger reorganizations of police systems. Fourth, future developments will also depend on the interests of the gendarmerie and on public opinion regarding how this force should be used. For countries like the Netherlands, civilian police forces are inadequate for missions that involved deploying larger numbers of police officers abroad for executive policing or for supporting local police with training, advice, or monitoring. If the demand for these activities increases, the gendarmerie is likely to benefit by gaining personnel (if necessary) to fulfill these tasks. If regular military units do not have higher priorities, they might take on some of the tasks of policing, not allowing much expansion of the gendarmerie. On the contrary, if gendarme forces are too consumed with internal security tasks in the home country to be involved abroad in any substantial way, the rest of the military might come to see them as a nuisance within the organization, and they might allow (or even promote) the strategic demilitarization of the gendarmerie.

Let me conclude by suggesting some topics for further research. It would obviously be interesting to learn more about why the gendarme forces of other countries are gaining or losing ground in internal security and international operations. Another fruitful direction would involve further study into the development of the tasks of the military or civilian police in countries that have no gendarmerie. What determines the

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<sup>47</sup> The Dutch Central Bureau of Statistics reports an increase in the number of registered crimes between 1996 (1,189,217) to a peak in 2002 (1,422,863), decreasing again in 2003 and 2004 (1,324,608).

development of police and military and their division of labor in the ever-changing security environment? Which units are better at which tasks? What can they learn from each other? Which will become less relevant in the years ahead? Will they merge, as some predict?<sup>48</sup> In general, I would welcome further international comparisons between police systems. Useful comparisons would include the role of gendarme forces, other paramilitary organizations, agencies and squads with combined police-military origins, and semi-police organizations (e.g., the customs service, the Coast Guard, and immigration authorities). In addition to theoretical work, quantitative research could shed more light on their development – as the discussion above should clearly indicate. Perhaps because they are a part of the military, less is also known about the actual operations, concepts, performance, and policies of gendarme forces than is known about other types of police entities. They are apparently better able to evade public, scientific, and political scrutiny than are regular police forces. Paramilitary organizations seem to have been overlooked in both military and police research.

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<sup>48</sup> Martin van Creveld, *The Rise and Decline of the State* (Cambridge: Cambridge University Press, 1999).

# International Cooperation of Intelligence Agencies against Transnational Terrorist Targets

Katarina Zivanovic \*

## Introduction

In the post-9/11 world, the role of intelligence agencies has continued to evolve. The most notable change from the Cold War environment, which was characterized by a lack of information sharing, has been the new emphasis on cooperation between intelligence agencies. It has become critical in this new environment for the intelligence community to change its ways, but this has not necessarily come easily. This essay will examine how the structure of threats has changed in today's world, and will address the shift in attitudes toward cooperation throughout the international intelligence community.

The ancient Chinese strategist Sun Tzu wrote over two thousand years ago that if you “know the enemy and know yourself, in a hundred battles you will never be in peril. When you are ignorant of the enemy but know yourself, your chances of winning or losing are equal.”<sup>1</sup> The need for intelligence activities developed along with the evolution of human society and military activity. The desire to overtake and conquer an opponent and protect one's own interests created an environment where one always needed to have more knowledge about one's opponent, in order to discover his weaknesses and strengths. Even though we can not identify precisely the exact moment of the birth of intelligence activity, we can find in various historical sources that powerful rulers in Africa and Asia were sending delegates to neighboring countries to collect information as early as the seventh century B.C. Rodger Hillman reminds us that the first written data on intelligence activities can be found in the Old Testament, when Moses sent spies to gather information about the land of Canaan.<sup>2</sup>

Many authors would agree that the competing interests at work—economic, social, political, military, etc.—in the process of building a state were the main reasons for creating a notion of secrecy that became an integral part of international relations. Different groups had different interests that were opposed to each other. The main task was to protect each group's “secrets” in order to maintain position and disguise intentions; through discovering somebody else's secrets, it was hoped that you would be

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\* Katarina Zivanovic, a 2007 graduate of the George C. Marshall European Center for Security Studies, works in the General Directorate for NATO and Defense Affairs of the Ministry of Foreign Affairs of the Republic of Serbia, in charge of international security and terrorism issues. The views expressed in the research paper are her personal views and do not in any way represent the official position of the government of the Republic of Serbia.

<sup>1</sup> Sun Tzu, *The Art of War*, trans. Samuel B. Griffin (New York: Oxford University Press, 1963), 84.

<sup>2</sup> See the Book of Numbers, Ch. 13; M.P. Milashinovich, *Terror of the West Over Modern Society* (Belgrade: BIGZ, 1997).

able to better achieve your own goals. The roots of intelligence agencies can be found in the struggle of opposing interests as a means to gain superiority.<sup>3</sup>

Wars played a crucial role in the development of intelligence agencies. The more you knew about your opponent, his military organization, and his strategic intentions, the greater your chances for victory. In Mongolia during the period of Genghis Khan, an intensive level of intelligence activity was developed, practiced not only by legates and traders, but by permanent agents as well.<sup>4</sup>

The intelligence agency, as the institutional home of such activity, appeared during the emergence of centralized states under absolute monarchies. Venice had the strongest intelligence agency in the sixteenth and seventeenth centuries, and some authors consider it to be the root of modern intelligence agencies.<sup>5</sup> More rapid and comprehensive development of intelligence agencies came during the nineteenth and twentieth centuries, especially in the period between the two World Wars. The classic methods of intelligence work were refined at that time, and they became the basis of a new strategic approach in international relations. After World War II and during the Cold War there was a plethora of conflicting state interests in different areas—politics, diplomacy, culture, science and technology—where intelligence activity took on new dimensions. All processes in all areas of social life became zones of intelligence interests. Thus, in their initial stages of development, intelligence activities were used by different groups, classes, parties, and individuals within a ‘state.’ Later, however, they became a critical instrument for accomplishing the vital interests of nation-states.<sup>6</sup>

## How Intelligence Works

What is intelligence? People have different definitions of the term. Some see it as classic “cloak and dagger” activity, along the lines of international spycraft. Others see it as a form of “Big Brother” surveillance, by which an all-powerful state monitors the activities of its citizens. For a soldier it can be knowledge of the enemy over the horizon; analysts see it as information that is waiting for clarification; and policymakers consider it to be information that meets stated or understood needs. Intelligence includes all the elements that gather together under the umbrella of national security, defense, and foreign policy, as well as certain aspects of international security. According to Melanie M.H. Gutjahr, intelligence is the process by which specific types of information that are important to national security are requested, collected, analyzed, and provided to policymakers. Intelligence is also the product of that process, the safeguarding of these processes and the respective information from counterintelligence activities, and the carrying out of operations as requested by lawful authorities.<sup>7</sup>

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<sup>3</sup> *Military Encyclopedia*, vol. VI, 2nd edition (Belgrade, 1973), 215.

<sup>4</sup> Adam Purg, *Obvescevalne sluzbe* (Ljubljana: Enotnost, 1995), 7.

<sup>5</sup> *Ibid.*, 14.

<sup>6</sup> For a thorough history, see Purg, *Obvescevalne sluzbe*.

<sup>7</sup> Melanie M.H. Gutjahr, *The Intelligence Archipelago: The Community's Struggle to Reform in the Globalized Era* (Washington, D.C.: Joint Military Intelligence College, May 2005).

The aim of intelligence activities in the current moment is determined by the transformation of intelligence interests and the objects of their interest, and it has had an influence on the development of intelligence agencies. Today, these agencies are trying to prevent surprises, make predictive and expedient decisions, and provide for the efficient conduct of state systems and command over the armed forces.<sup>8</sup>

Assignments of intelligence activities follow from the constantly changing needs of various leaders. Those needs are translated into demands for information on trends and conditions in specific sectors of society or in a society as a whole, as well as on relations between states in the international arena. Intelligence activities involve several phases: collection; processing; exploitation; analysis and production; dissemination and consumption; and feedback.<sup>9</sup>

### *Collection*

There are various types of intelligence collection; sometimes they are called the “collection disciplines,” or “INTs.” Technical collection systems are usually very expensive. Therefore, the ability to operate a large number of collection systems at the same time will always be constrained by costs. No single method of collection is used in isolation. Very often the details of collection capabilities (and even the existence of some of them) are highly classified secrets.<sup>10</sup>

The collection disciplines include a variety of different approaches. Imagery intelligence (IMINT) is derived from airborne and space collection platforms, such as satellites and aircraft. In the 1960s and 1970s, PHOTINT (photo intelligence) was the mainstay of IMINT. Signals intelligence, or SIGINT, refers to communication intercepts, and is a product of a number of subsidiary collection disciplines. Communication intelligence (COMINT) is the main source of SIGINT. Electronic intelligence (ELINT) contributes to SIGINT by gathering information from telephones, fax machines, copiers, and other electronic devices. Telemetry intelligence (TELINT) refers to the interception of encrypted signals. Measurement and signature intelligence (MASINT) employs resources of both IMINT and SIGINT. It is a relatively new discipline, and refers to weapons capabilities and industrial activities (for example, it can help identify the types of gases or wastes leaving a factory, which can be extremely important in chemical weapon identification). Human intelligence (HUMINT) relies less on technology and more on human labor. It involves sending agents to foreign countries, where they try to recruit foreign nationals to engage in espionage. Some intelligence targets, such as terrorism, international crime, or narcotics trafficking are

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<sup>8</sup> Interview with Prof. John Le Beau, George C. Marshall European Center for Security Studies, Garmisch-Partenkirchen, Germany, 20 November 2007.

<sup>9</sup> Milan Delic, *Obavestajna delatnost* (Belgrade: MUP RS, 1996).

<sup>10</sup> This discussion on collection methods is based on the work of Mark M. Lowenthal, *Intelligence: From Secrets to Policy* (Washington, D.C.: CQ Press, 2000), and the lectures by Prof. John Le Beau in his seminar on “Intelligence Challenges for Democratic States,” held in November 2007 at the George C. Marshall European Center for Security Studies in Garmisch-Partenkirchen, Germany.

difficult to deal with by technical means or through technical disciplines. In some instances, HUMINT may be the only available source of intelligence. It is also far less expensive than technical intelligence, but is very liable to deception. A new form of intelligence collection—open source intelligence (OSINT)—is now considered by many intelligence officials to be a potentially rich vein of information. OSINT includes media (newspapers, radio, TV, Internet), public data (government reports, speeches, conference proceedings), and professional and academic products (conferences, symposia, academic papers).

### *Analysis*

Analysis is the heart of the intelligence process. As Michael A. Turner argues, “Collecting intelligence information is of little value unless someone corroborates and evaluates the information, [then] sets it into context and uses it to form a series of judgments about foreign capabilities and intentions.”<sup>11</sup> Analysis exists in order to make sense of the secret world of intelligence and to communicate those insights to senior decision makers. The job of an analyst is to gather and collate all relevant intelligence information, analyze it for relevance and significance, and then draft reports for senior intelligence officials and policymakers. There are two forms of analytic reports: current intelligence (e.g., the “President’s daily intelligence briefing” by the CIA), and long-term research. Current intelligence deals with daily issues, while long-term research reports are forward-looking assessments of what might happen.

### *Counter-intelligence*

Counter-intelligence is an effort taken to protect one’s own intelligence operations from penetration and disruption by hostile nations and their intelligence services.<sup>12</sup> It is both analytical and operational. There are three types of counter-intelligence:

- *Collection*: gaining information about an opponent’s intelligence capabilities that may be aimed at you
- *Defensive*: preventing hostile intelligence services from penetrating your intelligence agencies
- *Offensive*: identifying an opponent’s efforts against your systems and trying to manipulate these attacks, either by ‘turning’ opponents’ agents into double agents or by giving them false information.

### *Covert Action*

This is one of the most controversial aspects of the intelligence realm. Covert action should not be undertaken solely at the initiative of the intelligence agencies. The United States’ National Security Act, Section 503(e) and Section 413b(e) of the United

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<sup>11</sup> This section is derived from Michael A. Turner, *Why Secret Intelligence Fails* (Dulles, VA: Potomac Books, 2005), and the lectures by Prof. John Le Beau mentioned above.

<sup>12</sup> For further information on counter-intelligence, see Mark M. Lowenthal, *Intelligence: From Secrets to Policy* (Washington, D.C.: CQ Press, 2000).



States Code define covert action as “an activity or activities by the United States government to influence political, economic, or military conditions abroad, where it is intended that the role of the United States government will not be apparent or acknowledged publicly.”<sup>13</sup>

### *The Role of the Policymaker*

Intelligence has always played a critical role for policymakers in the process of setting the course for a state’s domestic and foreign policy. As Mark Lowenthal has written, there is a constant need for intelligence that will provide background, context, information, warning, and assessments of risks, benefits, and likely outcomes for policymakers. But there should be a clear line drawn between intelligence and policy. Intelligence can play only a supporting role, and may not cross over into advocacy for specific policies. If there is a strong preference for a specific policy outcome, the intelligence analysis that is carried out may have a similar bias. That is called “politicized intelligence.” There are three important caveats in this regard:

- A distinction between policymakers and intelligence operatives does not mean that intelligence officers do not care about policy outcomes and do not influence them. We must make a distinction between an attempt to influence the process by providing acceptable intelligence and trying to manipulate intelligence so that policymakers make a specific choice. The latter case is not acceptable.
- Senior policymakers can and do ask senior intelligence officials for their opinions.
- Policymakers can reject or ignore intelligence at any moment.<sup>14</sup>

Nevertheless, if we look at the position and role that modern intelligence agencies play in the international arena, we can advance the hypothesis that the activities of intelligence agencies are part of the official policies of their states. If we keep in mind the fact that intelligence agencies, as specialized institutions, are part of the organizational system of a state that are guided by the top policymakers of the country, it is self-evident that their entire organization, planning, and activity should be strictly harmonized with that state’s political goals and tasks. Decision makers in many situations depend on intelligence analysis, assessments, and other products – this is how intelligence agencies exert immediate influence on the decision-making process within a state. Intelligence systems have a monopoly on the most delicate information, which gives them the power to influence the content and scope of decisions. They also have significant influence on all recipients of that information at all levels and phases of the process of the realization of state policy. In order to understand the essence of the relationship between intelligence and politics, it is necessary to know the basic elements of the politics of the respective countries involved.

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<sup>13</sup> See [www.intelligence.gov/0-natsecact\\_1947.shtml](http://www.intelligence.gov/0-natsecact_1947.shtml).

<sup>14</sup> *Ibid.*

## The New Challenge of International Terrorism

During the Cold War, the international community was divided into two separate blocs that were completely at odds with one another, and therefore in constant tension. No state felt entirely secure at that time, but somehow, states felt secure in their insecurity. They knew exactly who their enemy was; how strong it was; and what its interests and goals were. The threat was precise and predictable. There were two blocs, two great powers that opposed each other and were in constant need of increasing their raw military power. International policies revolved around their interests; hence, one always knew what could be expected. Security could be measured exactly. One could even predict who would win in a direct clash by calculating and measuring the military power of the adversaries. That is perhaps one of the reasons why direct conflict between the United States and Russia never actually occurred during the Cold War: their power was estimated as being roughly equivalent. For Western countries, the most menacing threat to their national security was the growing influence and power of their ideological competitor, the Soviet Union, and ultimately its arsenal of ballistic missiles. The world was divided into Communist and non-Communist states, so for virtually every nation in the world the enemy was well-defined and organized, with a vast military apparatus.<sup>15</sup>

Intelligence agencies were traditional as well. Their tasks and structures were largely similar, no matter which country they belonged to. They were large, formal bodies with major budgets. Technology played a crucially important role (U-2 spy planes, satellites, sensors, cameras, etc.), and a significant percentage of each side's intelligence budget was dedicated to the improvement of technology. The major powers had a global intelligence reach; hence the intelligence struggle became global. A primary focus of both Eastern and Western intelligence services was the opposition's intelligence service ("spy vs. spy"). The main intelligence methods used during the Cold War were: recruitment of human sources; encouraging the defection of officials (for example, Stalin's daughter Svetlana defected from the USSR to the U.S., and was connected to the CIA thereafter); and special operations.<sup>16</sup>

After the Cold War, intelligence agencies lost their primary purpose for existence. They no longer had a priority target, only several small, so-called "flavor of the month" targets that were constantly changing. It was clear that they needed to redefine their missions.

Globalization has brought additional challenges. The distinction between military actions and criminal activities—in fact, between states of peace and war—has become

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<sup>15</sup> For more on the differences between the two international systems (i.e., the Cold War era and the post-Cold War era) see Joseph S. Nye, Jr., *Understanding International Conflicts*, 5<sup>th</sup> edition (New York: Longman, 2005); Thomas L. Friedman, *The Lexus and the Olive Tree* (New York: Farrar, Straus and Giroux, 1999); and Henry Kissinger, *Does America Need a Foreign Policy?* (New York: Simon & Schuster, 2001).

<sup>16</sup> This section draws on the lectures delivered by Prof. John Le Beau in his seminar on "Intelligence Challenges for Democratic States" cited above.

blurred in today's world. The new enemy, no longer attached to a large, predictable state apparatus, has proven it can slip into and out of our nations undetected, reside unnoticed, move money invisibly, and communicate unhindered via everyday means with leadership elements located thousands of miles away. This enemy is not easily defined or identified, which complicates the situation for military and intelligence planners.<sup>17</sup> Nevertheless, after the terrorist attacks on Washington and New York on 11 September 2001, it was absolutely clear that the world was never going to be the same, and that it faced something new, something for which intelligence organizations as they stood at the time were ill-prepared.

The threat of international terrorism has become a priority for the intelligence organizations of several countries, not just the United States. On 17 March 1992, a suicide bomber crashed an explosive-filled truck into the Israeli Embassy in Buenos Aires (twenty-nine people were killed, and hundreds more injured). Two years later, Buenos Aires was again hit with a terror attack. This time the target was the Jewish community center in the heart of the city (eighty-five were killed). After a full-scale investigation, it was clear that Hezbollah had carried out the attacks, but also that at least one of them was planned in Iran at the highest levels of the Iranian government, aided by a sophisticated sleeper-cell network in Latin America. The reason for the attacks was to punish the Argentine government for canceling some agreements with Iran and to send a warning to the rest of Latin America. Also, by focusing on soft targets in Jewish communities, the operation would serve an additional objective: demonstrating to Israel that Hezbollah could strike anywhere, at any time.<sup>18</sup> As we can see in these examples, multiple organizations from several countries and two different continents were involved.

How can we deal with threats of this kind? Is one country able to address such a challenge on its own? What role does intelligence play in this security environment? What is new in the nature of this threat? Are we facing a new enemy? How does this new threat challenge intelligence organizations? First, we are facing a non-state actor that poses a global threat. It is very difficult to locate and understand its nature. Terrorist organizations span the globe with a great number of small cells. It is very difficult to monitor them by satellite or to track their communication systems. They operate clandestinely; most of the meetings where they discuss their plans are held in hotel rooms or apartments that are difficult to spy on. They do not draw attention to themselves. As one security analyst has noted, "Religious conviction gives them strength, but the armed struggle is what holds them together."<sup>19</sup> Furthermore, "they measure success differently: They define death and destruction as achievements in themselves."<sup>20</sup> Also, "the frequent use of ever-changing actors, aliases, and code words is another

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<sup>17</sup> Ibid.

<sup>18</sup> Dan Senor, "The Long Arm of Iran," *Wall Street Journal* (Eastern edition) (29 September 2007): A8.

<sup>19</sup> Brian M. Jenkins, *Countering Al Qaeda* (Santa Monica, CA: Rand Corporation, 2002); available at [www.rand.org/pubs/monograph\\_reports/2005/MR1620.pdf](http://www.rand.org/pubs/monograph_reports/2005/MR1620.pdf).

<sup>20</sup> Ibid.

unique challenge and significantly increases the chance of confusion and incorrect assessments.”<sup>21</sup> The nature of terrorist behavior is the reason why intelligence agencies are facing so many challenges in combating the threat. Terrorists are very disciplined, dedicated, and highly motivated. They will not easily betray their cause. The variety of ways they conduct their operations results in the fact that it is very difficult to predict future targets.

Even trends in terrorism are not easy to define. As former CIA director George Tenet stated before Congress, “While we often talk of two trends in terrorism—state-supported and independent—in Bin Laden’s case with the Taliban we had something completely new: a *terrorist* sponsoring a *state*.”<sup>22</sup> As the events of 9/11 indicated, existing intelligence structures were not ready for the new threat. It required them to adapt to a new set of international realities, but the problem was that intelligence structures were not created for adaptation.

Intelligence agencies in democratic states of the twenty-first century are dedicated to confronting transnational targets and non-state actors. The primary focus of most intelligence agencies, especially in the United States (the nation that has been most directly affected by these new threats) is on international terrorism and the proliferation of weapons of mass destruction (WMD), and on a concern that one day these weapons might fall into the hands of terrorist groups.<sup>23</sup>

The first major intelligence act in the United States in fifty years—one that has changed the authorities conferred by the National Security Act of 1947—is the Intelligence Reform and Terrorism Prevention Act (17 December 2004). The fact is that nobody, including the intelligence agencies themselves, noticed that they needed reform.<sup>24</sup> Only after the attacks of September 11 did it become a pressing issue. The 9/11 Commission Report (*The Report of the National Commission on Terrorist Attacks Upon the United States*) stated that the United States intelligence community was poorly positioned to anticipate the emerging Al Qaeda threat and to deal with it on time.<sup>25</sup> The commission especially faulted the poor level of cooperation between the FBI and the CIA, given that considerable information was either not shared at all, or was shared very inefficiently. The biggest organizational change was the creation of a new position—the Director of National Intelligence (DNI)—who became the “one voice” of the intelligence community. He has overall responsibility for the entire

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<sup>21</sup> Kie C. Fallis, *Statement for the Record: Lessons Learned and Actions Taken in Past Events*, Report to Congress (8 October 2002), 5; available at [www.fas.org/irp/congress/2002\\_hr/100802fallis.pdf](http://www.fas.org/irp/congress/2002_hr/100802fallis.pdf).

<sup>22</sup> George Tenet, *Written Statement for the Record of the Director of Central Intelligence Before the Joint Inquiry Committee* (17 October 2002), 4–5; available at [https://www.cia.gov/news-information/speeches-testimony/2002/dci\\_testimony\\_10172002.html](https://www.cia.gov/news-information/speeches-testimony/2002/dci_testimony_10172002.html).

<sup>23</sup> Prof. John Le Beau, seminar on “Intelligence Challenges for Democratic States,” November 2007.

<sup>24</sup> *Ibid.*

<sup>25</sup> *The 9/11 Commission Report: Executive Summary* (Washington, D.C.: U.S. Government Printing Office, 2004), 1–26; available at [www.gpoaccess.gov/911](http://www.gpoaccess.gov/911).

United States intelligence community (sixteen agencies), but lacks any operational authority.<sup>26</sup>

Interestingly, following the July 2005 attacks on the London transit system, similar charges were leveled against the intelligence and law enforcement organizations of the United Kingdom. A significant effort was dedicated to trying to improve the intelligence agencies involved, especially their ability to collect and analyze intelligence on terrorist organizations in order to prevent attacks (although the Antiterrorism, Crime, and Security Act had already been passed in December 2001 in the wake of the 9/11 attacks on the U.S.).<sup>27</sup> Significant steps have also been made in Germany. Before September 2001 there was very little cooperation among the various German intelligence agencies. There were, in fact, distinct boundaries and walls between them. After 9/11, these boundaries became porous, and a coordinating body was founded. It has not been very efficient so far, but it nevertheless represents an important step forward.<sup>28</sup>

The threat of the proliferation of WMD and the possibility of these weapons being in a terrorist's possession is currently one of the main preoccupations of intelligence agencies around the world. The development and production of WMD is very hard to track. Very small amounts of different substances that can be produced in small laboratories could be sufficient to cause massive destruction. Technical instructions for preparing such weapons can be found on the Internet.<sup>29</sup> Of particularly great concern is Al Qaeda's interest in acquiring unconventional weapons (WMD as well as chemical or biological elements). As one scholar has observed, "In a December 1998 interview, Bin Laden called the acquisition of these weapons a 'religious duty' and noted, 'How we would use them is up to us.'"<sup>30</sup>

Pakistan, being the only nuclear-armed Muslim nation, is also currently a source of grave concern. Given the current level of political uncertainty in Pakistan, there is a possibility that rising instability could lead to the loss of a nuclear device or material. There is also the possibility that Pakistani scientists or security officials could take advantage of the unsettled conditions in their country by selling technology, supplies, or secrets to the highest bidder. According to reporting in the *Los Angeles Times*, "In 2001, just weeks before the 9/11 attacks, two Pakistani nuclear experts met with Osama bin Laden in Afghanistan to discuss how Al Qaeda should go about building a

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<sup>26</sup> Prof. John Le Beau, seminar on "Intelligence Challenges for Democratic States," November 2007.

<sup>27</sup> *Antiterrorism, Crime, and Security Act of 2001*; available at [http://www.opsi.gov.uk/acts/acts2001/ukpga\\_20010024\\_en\\_1](http://www.opsi.gov.uk/acts/acts2001/ukpga_20010024_en_1).

<sup>28</sup> Prof. John Le Beau, seminar on "Intelligence Challenges for Democratic States," November 2007.

<sup>29</sup> Interview with Prof. John Le Beau, George C. Marshall European Center for Security Studies, Garmisch-Partenkirchen, Germany, 20 November 2007.

<sup>30</sup> Tenet, *Written Statement for the Record*, 5. For further research see Peter Katonah, Michael D. Intriligator, and John P. Sullivan, *Countering Terrorism and WMD: Creating a Global Counter-terrorism Network* (New York: Taylor & Francis Group, 2006).

nuclear device.”<sup>31</sup> Al Qaeda may also strike with a “dirty bomb,” a device that would use conventional explosives to spew radioactive material into the air. There is a possibility that terrorists could come into possession of the deadly poison ricin, which was found in the rented apartment of four Algerians in Great Britain.<sup>32</sup>

### *Collection*

The collection of intelligence refers to the act of gathering information from technical means, satellites, human espionage, and other sources. Throughout the twentieth century, the national security concerns of most countries were largely focused outwards, on foreign governments and militaries. During the Cold War, spies were easily recruited, whether lured by money or driven by disillusionment with their nation’s ideology.<sup>33</sup>

Huge sums of money were spent on developing and fielding unobtrusive imagery and signals control platforms and other technologies in order to closely monitor subjects and gain intelligence directly from locations overseas. But even being physically on the ground with sophisticated equipment cannot penetrate into the enemy’s mind, where his thoughts and motivations lie.<sup>34</sup>

Today, intelligence collection against terrorist groups is a particular challenge for intelligence agencies. It is inherently difficult to collect information against a cellular terrorist organization, since the cellular structure was adopted specifically to foil intelligence efforts. Terrorist groups such as Al Qaeda are not nation-states, but are clandestine organizations that are often broken down into small cells of highly dedicated individuals who will not betray their cause.<sup>35</sup> Their practice is to keep information about their most lethal plots confined within a small, tightly controlled group of true believers. Such targets are not impossible to locate and deal with, but the task is extremely difficult.

Most terrorists have only partial knowledge of an operation; only “the brain” of the operation knows all the pieces of the puzzle. The capture and interrogation of a terrorist suspect thus provides only a fragment of the whole picture, which must be fused with other scraps of information to reveal a plot. The recruitment of human sources from terrorist organizations is difficult. There is a lack of individuals that can be re-

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<sup>31</sup> Greg Miller, “Emergency Rule in Pakistan; Pakistan’s Nuclear Arsenal a U.S. Worry,” *Los Angeles Times* (8 November 2007): A10.

<sup>32</sup> David Batty, “Ricin Discovery ‘No Cause for Alarm’,” *The Guardian* (8 January 2003); available at [www.guardian.co.uk/society/2003/jan/08/alqaida.disasterresponse](http://www.guardian.co.uk/society/2003/jan/08/alqaida.disasterresponse).

<sup>33</sup> Prof. John Le Beau, seminar on “Intelligence Challenges for Democratic States,” November 2007.

<sup>34</sup> *Ibid.*

<sup>35</sup> Rohan Gunaratna, “The Terror Market: Networks and Enforcements in the West,” *Harvard International Review* (Winter 2006); available at <http://www.harvardir.org/articles/1507/>.

cruited, and most of them are motivated by ideology or religion instead of by material or political considerations, and therefore are very difficult to “flip.”<sup>36</sup>

Does this mean that intelligence agencies should conduct more technical operations? Are they a more useful approach against these new types of threats? Information that is openly available suggests that Al Qaeda stopped using telephones and other technical modes of communication sometime after the battle of Tora Bora in Afghanistan in late 2001, making it difficult to effectively employ technical types of intelligence collection against the group.<sup>37</sup> Anthony H. Cordesman suggests that countries such as Iran that are sophisticated enough to develop nuclear weapons are definitely sophisticated enough to understand the strengths and limitations of modern intelligence sensors, the timing and duration of satellite coverage, and the methods used to track imports and technology transfers. He has written that such groups have learned to cover and conceal, deceive, and create smaller and better-disseminated activities.<sup>38</sup> Data on phenomena such as key imports and technology transfers are very important for intelligence collection on proliferation, but those data usually represent only a small fraction of the actual effort. Also, the information collected is often vague and uncertain, “in part because importers and smugglers have every incentive to lie and are familiar with ways to defeat intelligence collection and import controls.”<sup>39</sup>

Human sources collection frequently is divided between “liaison reporting,” which comes from cooperative foreign intelligence services, and “unilateral reporting,” which is received from agents run by Western intelligence agencies.<sup>40</sup> Only the integration of all technical and human sources of intelligence can increase our understanding of, and our actions against, international terrorism. George Tenet stated to Congress that “it was this combination, this integration, that allowed us years ago to confirm the existence of numerous Al Qaeda facilities and training camps in Afghanistan.”<sup>41</sup>

In addition to traditional methodologies, we need an expanded notion of what intelligence is in order to defeat the new enemy. Greater attention should be focused on open sources of intelligence. Crucial information about the mindsets of terrorists and valuable insights into their cultures can be found on the Internet and in foreign newspapers. Sometimes even hidden messages conveying instructions to terrorist cells could be part of everyday, freely available sources of information.<sup>42</sup>

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<sup>36</sup> Prof. Nick Pratt, seminar on “International Terrorism and Security Implications for Democratic States,” George C. Marshall European Center for Security Studies, Garmisch-Partenkirchen, Germany, November 2007.

<sup>37</sup> Interview with Prof. John Le Beau, 20 November 2007.

<sup>38</sup> Anthony H. Cordesman, *The War After the War: Strategic Lessons of Iraq and Afghanistan* (Washington, D.C.: CSIS Press, 2004), 56.

<sup>39</sup> *Ibid.*, 57.

<sup>40</sup> Interview with Prof. John Le Beau, 20 November 2007.

<sup>41</sup> Tenet, *Written Statement for the Record*, 4–5.

<sup>42</sup> Prof. John Le Beau, seminar on “Intelligence Challenges for Democratic States,” November 2007.

### *Analysis*

During the Cold War era, generations of analysts in intelligence services in both the East and West were hired and trained for their knowledge and analytical capabilities concerning the member states of the Warsaw Pact or NATO. But that has changed since 9/11. The twenty-first century requires new analytical skills to be developed to deal with the international challenges posed by terrorism and weapons of mass destruction.

The language capabilities that are now regarded as important by the intelligence services reflect this reality. An understanding of Russian and English is not sufficient to address these new targets. Familiarity with Arabic and other Middle Eastern languages, their cultures and politics, and an understanding of the worldview of Islam have also become crucial.<sup>43</sup>

As Kie C. Fallis has written, analyses of intelligence data were traditionally directed at subjects such as the nation-state, where the existence, leadership, and location of many actors were not hidden, and therefore easier to examine and analyze. Information covered a wide spectrum, and was not too difficult to collect. This is not the case with analyses of terrorist groups. “Since almost all terrorist groups, and certainly their operational cells, function in a closed, clandestine manner, potential sources of accurate information are almost always limited to sensitive intelligence reporting,” one intelligence analyst has written. “As a result, a terrorist analyst must work harder over a longer period of time in an effort to corroborate reporting and build an accurate profile of a group.”<sup>44</sup>

Fallis argues that the next obstacle for quality terrorism analysis is the level of expertise and experience of the analyst. They have to have very broad knowledge of a wide range of topics. To be able to track one terrorist group, it is necessary to have experience with or a good working knowledge of terrorism itself; knowledge of a specific terrorist group; familiarity with the regional and national issues present in the group’s operating area; and an awareness of Islamic history, religion, culture, sects, etc.<sup>45</sup> It is obvious that one person cannot accumulate all that knowledge. So is the solution to train individual experts who would have expertise in one particular area (such as Islam, etc.), or is that too expensive?

Former CIA Director George Tenet stated that planning for terrorist operations can span several years, and that is a fact that complicates analysis and warning. The reason is that terrorists are not in a hurry to achieve their goals. After the June 1996 bombing of the Khobar Towers in Saudi Arabia—an attack that killed nineteen U.S. servicemen—Osama bin Laden said that the event was the beginning of the war between Muslims and the United States. Soon after that, he issued a religious edict, or *fatwa* (“Declaration of War”), authorizing attacks against Western military targets on the Arabian Peninsula. Later, in November 1996, when he was asked in an interview “why

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<sup>43</sup> Ibid.

<sup>44</sup> Fallis, *Statement for the Record*, 3–4.

<sup>45</sup> Ibid.



his organization had not yet conducted attacks in response to its August *fatwa* statement, Bin Laden replied, ‘If we wanted to carry out small operations, it would have been easy to do so after the statements, but the nature of the battle requires qualitative operations that affect the adversary, which obviously requires good preparation.’”<sup>46</sup>

The next challenge for analysts is the material itself. It is too voluminous and broad to be easily assimilated, but it is also fragmentary and of doubtful credibility. Such evidence can only provide a foundation for guesses about possible terrorist activities, and those guesses could be countless, because those fragments could be pieced together in numerous ways.<sup>47</sup> One necessity for today’s analysis is to “provide both current reporting and deeper understanding. In solving puzzles about the Soviet Union, analysts worked alone or in small groups, as parts of hierarchies. In trying to understand terrorism, analysts need to be part of larger virtual networks, across specialties and agencies. Moving toward a center-based organization will facilitate those networks.”<sup>48</sup>

### *Covert Actions*

Increasingly, some intelligence agencies have been asked to address twenty-first-century intelligence challenges (such as terrorism) with unorthodox means. In addition to intelligence analysis and collection activities such as espionage, some intelligence organizations have been called upon to actively disrupt terrorist organizations and their ongoing operations. Covert actions deal with direct, often violent actions against targets deemed to represent a threat to national interests, without the sponsoring government having to acknowledge that they have launched such actions. A number of covert actions performed by intelligence services—mainly from the U.S., Israel, and Russia—against modern terrorist targets have taken place over the last few years. These include paramilitary activities, renditions, and in some select instances targeted assassinations (against Hamas and Hezbollah figures, and also Chechen terrorists).<sup>49</sup>

Intelligence organizations have been called upon to conduct these activities probably because such actions do not fall under the basic authorizations for law enforcement units or the uniformed military. In 2005, the *Washington Post* reported that, “on Sept. 17, 2001, [U.S. President] Bush signed a classified Presidential Finding that authorized an unprecedented range of covert operations. The overall counterterrorism program included authorization of lethal measures against terrorists and the expenditure of vast funds to coax foreign intelligence services into a new era of cooperation with the CIA.”<sup>50</sup> Covert actions can also be “denied” by governments that do not wish to admit

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<sup>46</sup> Tenet, *Written Statement for the Record*, 4–5.

<sup>47</sup> Roundtable with FBI agents, George C. Marshall European Center for Security Studies, Garmisch-Partenkirchen, Germany, 20 November 2007.

<sup>48</sup> Gregory F. Treverton, *The Next Steps in Reshaping Intelligence*, Rand Occasional Paper 152 (Santa Monica, CA: Rand, 2005), 7–10; available at [www.rand.org/pubs/occasional\\_papers/OP152/index.html](http://www.rand.org/pubs/occasional_papers/OP152/index.html).

<sup>49</sup> Interview with Prof. John Le Beau, 20 November 2007.

<sup>50</sup> Dana Priest, “Foreign Network at Front of CIA’s Terror Fight,” *Washington Post* (18 November 2005): A01; available at [www.informationclearinghouse.info/article11059.htm](http://www.informationclearinghouse.info/article11059.htm).

to sponsorship. Normally they are not conducted by uniformed military forces. One very important aspect of covert actions is that, in most countries, intelligence agencies can pursue covert actions only with the authorization of the head of state (called a “Presidential Finding” in the U.S. context, as described above).<sup>51</sup>

*Rendition.* Rendition is an operation in which suspected terrorists are secretly apprehended and transferred to another country without any judicial review.<sup>52</sup> The process of rendition has complicated U.S. relations with its allies, particularly in Europe, and has arguably blackened America’s image abroad. The *Washington Post* reported that, since 9/11,

The U.S. government has secretly transported dozens of people suspected of links to terrorists to countries other than the United States, bypassing extradition procedures and legal formalities, according to Western diplomats and intelligence sources. The suspects have been taken to countries, including Egypt and Jordan, whose intelligence services have close ties to the CIA and where they can be subjected to interrogation tactics—including torture and threats to families—that are illegal in the United States, the sources said. In some cases, U.S. intelligence agents remain closely involved in the interrogation.<sup>53</sup>

The main reason for rendition is to avoid interrogating suspects in the United States, because the level of legal protection for those accused of crimes under U.S. law is very strong. On the other hand, top U.S. intelligence officials have argued strongly that renditions have saved lives, through information obtained from interrogations that would have been illegal in the U.S.<sup>54</sup>

*Targeted Killing.* Counterterrorism scholar Boaz Ganor defines the assassination of key persons as an individual offensive action, consisting of an attack on an individual or a group who are engaged in initiating, directing, preparing, recruiting, training, or aiding in a terrorist attack. The purpose of such actions is to kill—or at least neutralize—the targeted terrorist.<sup>55</sup> There are two dilemmas that bedevil this issue. The first is a moral dilemma: Does anybody have sufficient right or justification for intentionally taking a human life? The second is an issue of effectiveness: Intelligence agen-

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<sup>51</sup> Alfred Cumming, *Covert Action: Legislative Background and Possible Policy Questions*, CRS Report for Congress (Washington, D.C.: Congressional Research Service, updated 11 October 2007); available at [www.fas.org/sgp/crs/intel/RL33715.pdf](http://www.fas.org/sgp/crs/intel/RL33715.pdf).

<sup>52</sup> Dana Priest, “Help From France Key in Covert Operations,” *Washington Post* (3 July 2005): A01; available at [http://www.washingtonpost.com/wp-dyn/content/article/2005/07/02/AR2005070201361\\_4.html](http://www.washingtonpost.com/wp-dyn/content/article/2005/07/02/AR2005070201361_4.html).

<sup>53</sup> Rajiv Chandrasekaran and Peter Finn, “U.S. Behind Secret Transfer of Terror Suspects,” *Washington Post* (11 March 2002): A01; available at [www.infowars.com/saved%20pages/Police\\_state/torture\\_wapost.htm](http://www.infowars.com/saved%20pages/Police_state/torture_wapost.htm).

<sup>54</sup> Prof. John Le Beau, seminar on “Intelligence Challenges for Democratic States,” November 2007.

<sup>55</sup> Boaz Ganor, *The Counter-Terrorism Puzzle*, The Interdisciplinary Center, Herzliya, The International Policy Institute for Counter-Terrorism (New Brunswick, NJ: Transaction Publishers, 2005), 112.

cies are organizations of bureaucrats, not killers – can they be trusted to competently carry out such a delicate task? Frederick Hits, the former Inspector General of the CIA, was quoted as saying: “This is not what intelligence officers do. They’re not trained for it.”<sup>56</sup> The moral question is very difficult to answer, but the question of effectiveness brings into play another issue that could be controversial: the beginning of new forms of cooperation between intelligence agencies and uniformed military commando units/foreign agents, or employees who act on its behalf.<sup>57</sup> How can the possible joint action of an intelligence service and an armed military unit be coordinated? Who exercises oversight? What are the risks?

## **International Intelligence Cooperation Today**

### *International Intelligence Cooperation Before 9/11*

It is important to note that international intelligence cooperation existed before the attacks of September 2001. The CIA’s secret Counterterrorist Intelligence Centers (CTIC) represent one type of early cooperation. As Dana Priest reported in the *Washington Post*,

[t]he first two CTICs were established in the late 1990s to watch and capture Islamic militants traveling from Saudi Arabia, Yemen, Egypt and Chechnya to join the fighting in Bosnia and other parts of the former Yugoslavia, two former intelligence officers said. ... The intelligence centers were modeled on the CIA’s counter-narcotics centers in Latin America and Asia. Faced with corrupt local police and intelligence services, in the 1980s the CIA persuaded the leaders of these countries to let it select individuals for the assignment, pay them and keep them physically separate from their own institutions.<sup>58</sup>

Agency officials knew that the CIA officers would not be able to adequately respond to terrorist threats, and that they needed a much more intimate knowledge of local terrorist groups and their supporters on the ground.<sup>59</sup> That is the reason why intelligence interagency teams were “led to Moscow, New Delhi, Islamabad, Riyadh and Sana,” according to 1996 testimony given by Philip Wilcox, the United States’ then-Coordinator for Counterterrorism. “We have held consultations with over twenty governments in the past year [1995], and we have met with counterterrorism experts of the European Union and the Group of Eight. ... A Ministerial Conference on Terrorism of the Group of Eight in Ottawa in December, which grew out of the Halifax Summit in June, addressed concrete ways to enhance international cooperation against terrorism

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<sup>56</sup> Barton Gellman, “CIA Weighs ‘Targeted Killing’ Missions,” *Washington Post* (28 October 2001): A01; available at <http://www.washingtonpost.com/ac2/wp-dyn/A63203-2001Oct27?language=printer>.

<sup>57</sup> Ibid.

<sup>58</sup> Priest, “Foreign Network at Front of CIA’s Terror Fight,” 2.

<sup>59</sup> Interview with Prof. Nick Pratt, George C. Marshall European Center for Security Studies, Garmisch-Partenkirchen, Germany, 20 November 2007.

on a global level. The International Conference on Counterterrorism at Baguio in the Philippines last month [March 1996], was the first such initiative in Asia.”<sup>60</sup>

Every cooperative interaction, whether bilateral or multilateral, must be framed by rules of engagement. Rules of engagement are an agreement in written form signed by both sides in which parties agree upon all elements of their future cooperation.<sup>61</sup> Good examples of international intelligence cooperation are those arrangements governing rendition and secret prisons, the so-called “black sites” where the CIA is hiding and interrogating the most important Al Qaeda captives in compounds in Eastern Europe, Thailand, Afghanistan, and Cuba (Guantanamo Bay). Such approaches to intelligence collection depend heavily on cooperation among intelligence agencies in a variety of countries, both those where the sites are located and those where individuals are apprehended and transported.<sup>62</sup>

### *Bilateral Cooperation*

Before 9/11, bilateral cooperation among countries fighting against terrorist targets was much more developed than multilateral cooperation. The smaller the circle of countries involved in a cooperative intelligence effort, the less opportunity exists for leaks of information. Bilateral relationships allow for greater control over how and with whom shared information is disseminated. It is also much easier to develop relations based on mutual confidence with one country than with several. Bilateral counterterrorism cooperation occurs on an *ad hoc* basis most of the time. A formal method of bilateral cooperation is the LEGAT program, where FBI agents serve as liaison officials in U.S. embassies overseas (the CIA has a similar program).<sup>63</sup>

The United States and Germany have a strong bilateral relationship in counterterrorism cooperation. The German intelligence agency installed a computer terminal in 1997 in the *Bundeskriminalamt* (BKA, or Federal Criminal Police Office) that is directly linked with the U.S. National Criminal Information Center. BKA officers therefore could access U.S. police files on criminal suspects. Over a period of time, this collaboration became the basis for shared efforts against terrorism.<sup>64</sup>

The United Kingdom has traditionally had a close relationship with the U.S. in many areas; in fact, cooperation between the two nations’ intelligence agencies became

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<sup>60</sup> Ambassador Philip C. Wilcox Jr., Coordinator for Counterterrorism, “Combating International Terrorism,” testimony before the House of Representatives, Permanent Select Committee on Intelligence, Washington, D.C. (5 March 1996); available at [http://fas.org/irp/congress/1996\\_hr/h960305w.htm](http://fas.org/irp/congress/1996_hr/h960305w.htm).

<sup>61</sup> Interview with Prof. Nick Pratt, George C. Marshall European Center for Security Studies, Garmisch-Partenkirchen, Germany, 20 November 2007.

<sup>62</sup> Dana Priest, “CIA Holds Terror Suspects in Secret Prisons,” *Washington Post* (2 November 2005): A01; available at <http://www.washingtonpost.com/wp-dyn/content/article/2005/11/01/AR2005110101644.html>.

<sup>63</sup> Roundtable with FBI agents, George C. Marshall European Center for Security Studies, Garmisch-Partenkirchen, Germany, 20 November 2007.

<sup>64</sup> Wyn Rees, *Transatlantic Counter-Terrorism Cooperation: The New Imperative* (London: Routledge, Taylor & Francis Group, 2006).

routine as early as the late 1930s. Since 9/11, it has extended to include counterterrorism efforts. Wyn Rees has written that “a working group on Homeland Security was created between the two states, and the focus has been upon sharing best practices in domestic counter-terror preparations, joint training exercises....”<sup>65</sup>

France and Spain started their close cooperation in counterterrorism efforts in 1984 because of the activities of the separatist group ETA (*Euzkadi Ta Askatasuna*), which was trying to create an independent Basque state in Spain that would also include parts of French territory. ETA had carried out numerous terrorist actions in both France and Spain, most notably a long string of bombings. Rees notes that, “in 1992, France and Spain cooperated in a raid on a property in Bayonne that resulted in [the] capture of many of the senior leadership in ETA.”<sup>66</sup>

Intelligence cooperation between Israel and the Palestinians has always been fraught by many problems, but nevertheless it exists. While the Israel Defense Forces (IDF) controlled the West Bank and the Gaza Strip, where most Palestinian-led terrorist attacks originated, they were able to preempt most terrorist actions. But during the implementation of the Oslo Accords, the IDF left the territory of the Palestinian Authority (PA), and in order to avert terrorist attacks on Israeli soil they had to rely more heavily on intelligence. Prior to the establishment of the PA, Israel cooperated with Palestinian intelligence sources by offering them transit permits, benefits, jobs, etc. But Israel’s withdrawal from the autonomous areas destroyed most Palestinians’ motivation to cooperate with Israeli intelligence agencies.<sup>67</sup>

Dana Priest has written that Ali Abdullah Saleh, the President of Yemen, did not have much control over Yemen’s northern border with Saudi Arabia in late 2001. That part of Yemen turned into a haven for extremists and terrorist training camps. George Tenet, director of the CIA at that time, persuaded A. Saleh to work with the CIA. Tenet provided millions of dollars in aid (including helicopters, weapons, and bulletproof vests) in exchange for Yemen’s cooperation. He also brought in U.S. Army Special Forces trainers to help Yemen create an antiterrorism unit. A. Saleh gave approval for the CIA to fly “predator drones armed with Hellfire missiles over the country.” As a result of that particular cooperation, the CIA “killed six Al Qaeda operatives driving in the desert, including Abu Ali al-Harithi, suspected mastermind of the 2000 attack on the USS *Cole*.”<sup>68</sup>

Cooperation between Indonesia and the CIA started with Washington fulfilling the personal requests of Lt. Gen. Abdullah Hendropriyono, the chief of the Indonesian intelligence service. He requested money for a regional intelligence school, and also asked for help getting a relative admitted into a top-rated American university. The result of this cooperation was the arrest of Muhammad Saad Iqbal Madni, who was linked to the failed British shoe bomber Richard Reid. In addition, Hendropriyono al-

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<sup>65</sup> Ibid., 33.

<sup>66</sup> Ibid., 35.

<sup>67</sup> Gaynor, *The Counter-Terrorism Puzzle*, 53–55.

<sup>68</sup> Priest, “Foreign Network at Front of CIA’s Terror Fight.”

lowed renditions from Indonesian soil, which resulted in Madni being flown to Egypt for interrogation.<sup>69</sup>

A “liaison relationship” is a type of bilateral intelligence cooperation. An intelligence agent of one country is seconded to the service of a host country. Such a relationship has to be formal: the agent is “accredited” by the director of one service to the director of the host service by a formal letter. The fact is that the cover of one officer is being sacrificed in order to gain a good relationship with the other side. The liaison officer must be extremely well prepared for the job. He needs to be fluent in the language of the country where he is “accredited.” In addition, the meeting place or safe house where interactions between the seconded agent and the host agency take place must be well chosen in order to protect the identity of both sides.

The personality of the liaison officers on both sides is another important consideration. Sometimes a good relationship comes to an end with a change of liaison officer if the new agent’s personality is not congenial to his or her counterpart. As part of the U.S. relationship with Saudi Arabia, the CIA would brief the Saudi king on a regular basis. The king was completely against female officers being included as part of the intelligence team. After a long discussion, stressing the fact that a certain part of a briefing could be done only by a female agent, the king accepted. For three years, only that officer briefed the king, and when she changed postings that aspect of the cooperative relationship gradually downsized.<sup>70</sup>

### *Multilateral Cooperation*

Wyn Rees has written of global terrorism that “the growing international dimension of the problem has demanded a more coherent multilateral answer: a terrorist attack may involve the deaths of nationals from several countries, the police investigation may require evidence from more than one jurisdiction, and suspects may be extradited from multiple territories.”<sup>71</sup> Thus, multilateral cooperation is an increasingly prevalent feature in the global counterterrorism arena. Multilateral approaches are being developed both through formal institutions (NATO, EU, UN, etc.) and “informal levels” (Alliance Base).

*Cooperation within the EU.* Intelligence cooperation within the institution of the European Union did not exist before 2000, when defense intelligence cooperation started as part of the development of the European Security and Defense Policy (ESDP). This is a completely new form of intelligence cooperation in Europe, produced with the help of the European intelligence services but performed under the EU umbrella. The Western European Union (WEU) initiated the process during the 1990s, and most of the WEU institutions have become part of today’s institutional organization of the EU. Three of them represent the EU’s intelligence capacity: The EU Satel-

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<sup>69</sup> Ibid.

<sup>70</sup> Interview with Prof. Nick Pratt, George C. Marshall European Center for Security Studies, Garmisch-Partenkirchen, Germany, 20 November 2007.

<sup>71</sup> Rees, *Transatlantic Counter-terrorism Cooperation*, 35.

lite Center (EUSC), the Intelligence Division of the EU Military Staff (INTDIV), and the EU Situation Center (SITCEN).

The EUSC is considered to be the first true intelligence capability at the European level. It is mainly tasked with imagery surveillance and works as an early warning unit. The INTDIV is the forum in which military intelligence is exchanged and analyzed. EU High Representative Javier Solana has promoted SITCEN as the primary center of the EU's intelligence architecture. It is the place where all information and intelligence come together and are integrated into the all-source intelligence report. This report goes to the primary ESDP decision makers. The analysis department is the core of this unit. It employs seconded national intelligence agents from the U.K., France, Germany, Spain, Italy, Sweden, and the Netherlands. The EU intelligence cycle is focused mainly on imagery intelligence. EU monitors can only partly be seen as true vehicles for the collection of human intelligence.<sup>72</sup>

*Cooperation within NATO.* Multilateral intelligence cooperation within NATO is perhaps best described by an extensive passage from the *NATO Handbook*. It states:

The *Intelligence Division* provides day-to-day strategic intelligence support to the Secretary General, the North Atlantic Council/Defence Planning Committee, the Military Committee, and other NATO bodies such as International Military Staff elements, the Political Committee, and WMD Proliferation Center. It relies on the NATO nations and NATO commands for its basic intelligence needs since it has no independent intelligence gathering function or capacity. On the basis of these contributions, it acts as a central coordinating body for the collation, assessment, and dissemination of intelligence within NATO Headquarters and to NATO commands, agencies, organizations and nations. In addition to providing routine staff intelligence support, the Intelligence Division manages and coordinates the production and dissemination of NATO strategic intelligence estimates, intelligence policy documents and basic intelligence documents, as well as the maintenance of selected databases and digital intelligence information services. It also performs strategic warning and crisis management functions and conducts liaison with other NATO and national bodies performing specialized intelligence functions and related activities. In sum, the Intelligence Division, supported by NATO nations and commands, keeps the Alliance's senior bodies continually informed, facilitates the Military Committee's formulation of military advice to political authorities, provides an intelligence foundation for guiding the composition, organization, and operations of NATO forces, and performs a broad range of tasks in support of NATO defence and political functions.<sup>73</sup>

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<sup>72</sup> Thorsten W. Etzling, research and scientific assistant at the Geneva Graduate Institute of International Studies, *The Democratic Control of Inter-governmental Intelligence Cooperation*, Working Paper No. 165 (Geneva: Centre for the Democratic Control of Armed Forces, May 2006). For further research on intelligence cooperation within the EU see Jess Pilegaard, *The Politics of European Security* (Copenhagen: Danish Institute for International Studies, 2004).

<sup>73</sup> *NATO Handbook*, available at [www.nato.int/docu/handbook/2001/hb1103.htm](http://www.nato.int/docu/handbook/2001/hb1103.htm).

### *Alliance Base: An Example of Multilateral Intelligence Cooperation*

The existence of the Alliance Base was first revealed by *Washington Post* articles written by Dana Priest (a 2006 Pulitzer Prize winner) in 2005. They indicate that “the CIA has established joint operation centers (Counterterrorist Intelligence Centers, or CTICs) in more than two-dozen countries where U.S. and foreign intelligence officers work side by side to track and capture suspected terrorists and to destroy or penetrate their networks. . . . The secret Counterterrorist Intelligence Centers are financed mostly by the agency [CIA], and employ some of the best espionage technology the CIA has to offer, including secure communications gear, computers linked to the CIA’s central databases, and access to highly classified intercepts once shared only with the nation’s closest Western allies.”<sup>74</sup> CTICs exist in many countries in Europe, Asia, and the Middle East.

As Priest described the Alliance Bases’ functioning, “The initial tip about where an Al Qaeda figure is hiding may come from the CIA, but the actual operation to pick him up is usually organized by one of the joint centers and conducted by a local security service.”<sup>75</sup> The Alliance Base center is situated in Paris and includes representatives from Great Britain, France, Germany, Canada, Australia, and the United States. This type of cooperation between intelligence agencies from different countries existed previously, but the formation of Alliance Base represents a positive step toward the codification of such cooperation, therefore making it stronger and more efficient. The Alliance Base is not the work of large army formations; rather, it represents a close cooperative effort of U.S. intelligence case officers and foreign operatives, often in *ad hoc* arrangements.

Alliance Base is headed by a French general “assigned to France’s equivalent of the CIA – the General Directorate for External Security (DGSE).”<sup>76</sup> So far as we know from available public sources, the Alliance Base “is unique in the world because it is multinational and actually plans operations instead of sharing information among countries.”<sup>77</sup> The center’s working language is French. As Priest described it, “The base selects its cases carefully, chooses a lead country for each operation, and that country’s service runs the operation.”<sup>78</sup>

The Alliance Base is responsible for identifying, tracking, and capturing or killing the vast majority of committed jihadists who have been targeted outside Iraq and Afghanistan since the 9/11 attacks. “The network of centers reflects what has become the CIA’s central and most successful strategy in combating terrorism abroad,” Priest wrote. “Virtually every capture or killing of a suspected terrorist outside Iraq since the September 11, 2001, attacks—more than 3,000 in all—was the result of foreign intelligence services’ work.”<sup>79</sup>

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<sup>74</sup> Priest, “Foreign Network at Front of CIA’s Terror Fight.”

<sup>75</sup> Ibid.

<sup>76</sup> Priest, “Help from France Key in Covert Operations.”

<sup>77</sup> Ibid.

<sup>78</sup> Ibid.

<sup>79</sup> Priest, “Foreign Network at Front of CIA’s Terror Fight.”



*Case Study One: The Ganczarski Operation.* One of the most successful joint operations of intelligence agencies under the rubric of the Alliance Base is known as the Ganczarski Operation. Christian Ganczarski was a German convert to Islam. He “had been radicalized by a Saudi cleric touring European mosques in the early 1990s, studied Islam on a religious scholarship in the Kingdom, traveled to Afghanistan four times, [and] trained in Al Qaeda camps.”<sup>80</sup>

As Dana Priest wrote, “Ganczarski’s cell phone was the last number that a suicide bomber who killed 21 people on the (*Tunisian*) island of Djerba called in April 2002.”<sup>81</sup> Through communications or signals intercepts (SIGINT), the German intelligence service located Ganczarski and he was arrested. But, according to German law, the origin of the information that connected Ganczarski to the Djerba bombing rendered the evidence inadmissible. In other words, the BND did not have the right to observe a German citizen and collect data from that phone call. Ganczarski was released from prison, and the case was closed, upon which Ganczarski flew to Riyadh, Saudi Arabia.<sup>82</sup>

The BND decided to continue with the case, so they brought the file to the Alliance Base, and a cooperative operation started. The decision was made to prosecute Ganczarski in France, because some of the casualties in the Djerba bombing were French, and under French law the evidence from Ganczarski’s intercepted phone conversation was admissible in the prosecution. The CIA asked for cooperation from the Saudi intelligence service, and they agreed. The Saudi government had put Ganczarski under house arrest for having an expired pilgrim visa, and had given his family one-way tickets back to Germany, with a change of planes in Paris. But on the flight from Riyadh to Paris he was (unbeknownst to him) escorted by an undercover officer sitting behind him, and a senior CIA officer was waiting when he disembarked in Paris. French authorities separated him from his family and took him into custody.<sup>83</sup> “The Alliance Base’s role in the operation was noted obliquely on June 11, 2003, by Interior Minister Nicholas Sarkozy,” Dana Priest reported. “Speaking before Parliament, he said, ‘This arrest took place thanks to the perfect collaboration between the services of the great democracies.’”<sup>84</sup>

*Case Study Two: “Operation Albrecht” – The Alleged 2007 Bomb Plot in Germany.* “Operation Albrecht” was the code name for the largest German police operation in thirty years – one involving hundreds of intelligence and security agents and

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<sup>80</sup> Priest, “Help from France Key in Covert Operations.”

<sup>81</sup> Ibid.

<sup>82</sup> Interview with Prof. John Le Beau, George C. Marshall European Center for Security Studies, Garmisch-Partenkirchen, Germany, 20 November 2007.

<sup>83</sup> Ibid.

<sup>84</sup> Priest, “Help from France Key in Covert Operations.”

police officers from across Germany's security community.<sup>85</sup> As was reported in the *New York Times*,

The discovery [in 2006] of a plot to detonate powerful bombs in Germany ... was the result of close cooperation between American and German security officials, with intelligence passing back and forth between the two sides. ... American intelligence was instrumental in first bringing the foiled plot to the attention of German intelligence and law enforcement officials. ... Interceptions of e-mail messages and telephone calls between Germany and both Pakistan and Turkey raised initial red flags. ... But the Americans also wanted to protect their sources, ... which meant that the earliest warnings were vague.<sup>86</sup>

The *Los Angeles Times* reported that a "U.S. intelligence intercept of suspicious communications between Pakistan and Stuttgart ... was the initial break that ultimately led to the arrest ... of three suspected Muslim militants [Fritz Gelowicz, Daniel Martin Schneider, and Adem Yilmaz] accused of plotting massive car-bomb attacks. ... Authorities said the three claimed allegiance to the Islamic Jihad Union, an Uzbek group that broke off from the Islamic Movement of Uzbekistan, an Al Qaeda ally, in 2002."<sup>87</sup> U.S. authorities passed the lead along to German police, who conducted a painstaking investigation into the three suspects. After nine months of extensive police work, the suspects were arrested and "were charged with plotting to detonate gigantic bombs made with highly concentrated hydrogen peroxide, of which they had managed to procure three-quarters of a ton," Christopher Caldwell reported in the *New York Times*. "Investigators said the group planned to attack 'soft targets' near American military installations, along with the Frankfurt airport."<sup>88</sup> According to one journalist, "Several security analysts and one diplomat said the top-secret, international counter-intelligence center in Paris known as 'Alliance Base' may have been involved in Operation Albrecht."<sup>89</sup>

Simply judging by the results, "informal" intelligence cooperation is much more effective than its more formal variants. One of the reasons for this is probably the lack of will to pursue deeper cooperation on sensitive issues that is often present among countries within the context of international organizations. They are still concerned that closer cooperation might jeopardize their sovereignty (this is particularly the case within the EU). As Nick Pratt has argued, "It is said that, when issues are discussed

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<sup>85</sup> Louis Charbonneau, "German Ties with CIA Thrive," *Reuters* (21 September 2007); at [http://www.saudigazette.com.sa/index.php?option=com\\_content&task=view&id=37516&Itemid=14](http://www.saudigazette.com.sa/index.php?option=com_content&task=view&id=37516&Itemid=14).

<sup>86</sup> Souad Mekhennet and Nicholas Kulish, "Germans Say U.S. Officials Helped to Foil Bombing Plot," *New York Times* (9 September 2007); at [www.nytimes.com/2007/09/09/world/europe/09germany.html?\\_r=1&oref=slogin](http://www.nytimes.com/2007/09/09/world/europe/09germany.html?_r=1&oref=slogin).

<sup>87</sup> "Communications Intercept Led to Bomb-Plot Arrests," *Los Angeles Times* (7 September 2007); available at [www.tbo.com/news/nationworld/MGBD1CJ4A6F.html](http://www.tbo.com/news/nationworld/MGBD1CJ4A6F.html).

<sup>88</sup> Christopher Caldwell, "Germany on Tiptoe over Terror," *New York Times* (9 September 2007); available at [www.nytimes.com/2007/09/09/weekinreview/09caldwell.html](http://www.nytimes.com/2007/09/09/weekinreview/09caldwell.html).

<sup>89</sup> Charbonneau, "German Ties with CIA Thrive."

between EU members, everyone can read about the discussion in the press.”<sup>90</sup> There is also an issue of the quality of the relationships between respective countries. Some relationships are good, others less so. Therefore, countries prefer to cooperate more closely with their political and ideological partners, which creates a state of “partial cooperation” within a multilateral organization. All these reasons contribute to making intelligence cooperation within international organizations very difficult to achieve.

### *International Intelligence Cooperation on a Formal Basis*

One example of formal international intelligence cooperation is the U.S. FBI’s experience working with several different foreign intelligence services on a more structured footing. Types of formal cooperation covered by these relationships include the following<sup>91</sup>:

- *Legal Attaché Program (LEGAT)*: FBI agents are stationed in overseas embassies.
- *“Raw intelligence” cables*<sup>92</sup>: Intelligence is collected in the field, and then sent to FBI headquarters (FBIHQ). FBIHQ prepares raw intelligence cables and then sends them to the appropriate foreign government. Before sending the raw intelligence cables, the FBI redacts the data to protect FBI sources and methods.
- *Training*: The FBI assists foreign governments in training officers from their intelligence services. For example, there is a program in which police officers from foreign countries travel to the FBI Academy in Quantico, Virginia, to receive training.
- *Tracking terrorist finances*: The FBI and other United States government agencies have worked with several different foreign governments to track and freeze the finances of terrorist operations. According to E. Anthony Wayne, the U.S. State Department’s Assistant Secretary for Economic and Business Affairs, “Cooperation between Spanish law enforcement authorities and our Federal Bureau of Investigation is now being facilitated on a day-to-day basis through an FBI agent detailed to Madrid from Washington to work closely with our colleagues from Spain on terrorist financing cases.”<sup>93</sup> There are three main areas of international cooperation against terrorist financial networks:

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<sup>90</sup> Interview with Prof. Nick Pratt, George C. Marshall European Center for Security Studies, Garmisch-Partenkirchen, Germany, November, 2007.

<sup>91</sup> The following is drawn from a roundtable discussion with FBI agents at the George C. Marshall European Center for Security Studies in Garmisch-Partenkirchen, Germany on 20 November 2007.

<sup>92</sup> “Raw intelligence” is unevaluated intelligence.

<sup>93</sup> E. Anthony Wayne, U.S. State Department, Assistant Secretary for Economic and Business Affairs, “International Cooperation Against the Financing of Terrorism,” talk delivered at the Foundation Jose Ortega y Gasset, Madrid, Spain (16 November 2005); available at [www.state.gov/e/eeb/rls/rm/2005/57413.htm](http://www.state.gov/e/eeb/rls/rm/2005/57413.htm).

designations of terrorists and their supporters; United Nations sanctions; and technical assistance and training. Wayne stated in November 2005: “Last May, as one step to address this gap, we agreed to exchange training and technical assistance plans with the European Union, and forwarded a list of training we have conducted and programs we plan to conduct through the end of 2005 to the EU counterterrorism coordinator’s office ... but we have heard that EU member governments—some of the best-placed governments to provide this sort of assistance—are reluctant to share the information even with each other.”<sup>94</sup>

- *Interpol*: FBI agents are assigned to Interpol and cooperate with them in everyday operations.
- *Extradition and rendition*: The FBI works with foreign governments to extradite terrorist suspects (the CIA is often responsible for renditions).
- *Extraterritorial cases*: The FBI conducts work overseas in support of domestic-related investigations. According to the statements of FBI agents at a 2007 roundtable discussion at the George C. Marshall Center in Garmisch-Partenkirchen, Germany, since the mid-1980s, the FBI has investigated more than five hundred extraterritorial cases. In addition to the investigation into the September 11 attacks, several other ongoing extraterritorial investigations rank among the FBI’s highest-profile cases, including the investigation into the 1996 bombing of the Khobar Towers in Saudi Arabia, which killed nineteen United States servicemen; the bombings of the U.S. Embassies in Kenya and Tanzania, which killed twelve Americans; and the bombing of the USS *Cole*, which claimed the lives of seventeen U.S. sailors.<sup>95</sup>

### *Information (Intelligence) Sharing*

Intelligence sharing “has been hailed as a preventive for terrorist attacks, a prophylactic for miscommunication, and the pinnacle of preparedness that every intelligence, law enforcement, and homeland security agency in the government should strive to reach.”<sup>96</sup> A powerful example of the tragic cost of the lack of information sharing was the failure of the CIA and the FBI to cooperate effectively and share information that they had about Al Qaeda and its capabilities in the months before the 11 September 2001 attacks on New York and Washington. That lack of cooperation resulted in an enormous tragedy, since, between the two agencies, they may have had enough intelligence to disrupt the plot.<sup>97</sup>

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<sup>94</sup> Ibid.

<sup>95</sup> Roundtable discussion with FBI agents, George C. Marshall European Center for Security Studies, Garmisch-Partenkirchen, Germany, 20 November 2007.

<sup>96</sup> Shane Harris, “Information Sharing: How They Connect the Dots,” *Government Executive* (1 September 2007): 34.

<sup>97</sup> For an in-depth discussion see Eleanor Hill, “Joint Inquiry Staff Statement” (17 October 2002); available at [www.fas.org/irp/congress/2002\\_hr/101702hill.html](http://www.fas.org/irp/congress/2002_hr/101702hill.html).

Intelligence sharing is a highly delicate issue in transatlantic security cooperation. As Wyn Rees notes, “The sensitive nature of the information, the difficulty of obtaining it and its vulnerability to being compromised makes intelligence a precious commodity that states share only with great reluctance.”<sup>98</sup> Before 9/11, intelligence sharing was based on a traditional concept of bilateralism, but since 9/11 it has started to take on more multilateral aspects, because “a vital ingredient in fighting terrorism is timely and accurate intelligence.”<sup>99</sup>

There are circles of sharing information between intelligence services. United States intelligence services, for example, share some types of information with no one. Then there is information that is shared only with intelligence agencies within the United Kingdom, or with Alliance Base – that is, only with the United States’ closest allies.<sup>100</sup> But one thing is sure: if you do not share information, you can have only marginal success in fighting global terrorism. On the other hand, by sharing information, you can also get burned (a source could be compromised, there could be an intelligence leak, etc.). The question is how to quantitatively weigh these risks, but the answer is that one simply cannot. There is an unwritten rule, which is called “trust.” The only way things as sensitive as intelligence cooperation and intelligence sharing can work is that parties must trust each other.<sup>101</sup>

The common interest of each side is the main reason for cooperation in the first place; therefore, there is a reasonable belief that parties are going to play by the rules. There are some other rules besides trust when it comes to sharing information. The first rule is that the first information to be shared is “perishable” information – it is time-sensitive, and it must be shared in time to be useful. The second rule is that of following the “tear line,” which means that intelligence agencies share only those pieces of information that could be useful to their partners, but they leave out any information that could harm them or their sources. The third rule is to follow any third-party agreements that may exist between two countries that have agreed to share information; such agreements dictate that information exchanged will not be shared with anybody else. There is also an issue around what is colloquially known in the intelligence field as the “family jewels,” which means the very best intelligence. High-ranking intelligence officers do not want to share their “jewels,” and the common expectation is that they will not do so.<sup>102</sup> The negative side of intelligence cooperation and information

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<sup>98</sup> Rees, *Transatlantic Counter-terrorism Cooperation*, 90.

<sup>99</sup> Interview with Prof. John Le Beau, George C. Marshall European Center for Security Studies, Garmisch-Partenkirchen, Germany, 20 November 2007.

<sup>100</sup> Interview with Prof. Nick Pratt, George C. Marshall European Center for Security Studies, Garmisch-Partenkirchen, Germany, 20 November 2007.

<sup>101</sup> Roundtable discussion with FBI agents, George C. Marshall European Center for Security Studies, Garmisch-Partenkirchen, Germany, 20 November 2007.

<sup>102</sup> Interview with Prof. Nick Pratt, George C. Marshall European Center for Security Studies, Garmisch-Partenkirchen, Germany, November 2007.

sharing is that a significant percentage of the information exchanged could be useless. But the risk has to be accepted, because there is no alternative.<sup>103</sup>

## Conclusion

To fight an enemy that uses multiple measures, a government needs the same ability to employ multiple responses. No single security formation (military, police, gendarmerie) possesses that full scope of operational strengths. These capabilities most often rest with intelligence agencies. They can help to “identify those engaged in terrorism at all levels of involvement and reveal their safe havens and sources of recruitment; track down their weapons, channels of supply, and methods of funding terrorism; warn against future attacks, and thus prevent them; manage crisis situations by transmitting the information decision makers require; disrupt terrorist organizations’ communications networks, and more.”<sup>104</sup>

I posed a question to a former intelligence officer from the CIA: Is international cooperation among intelligence agencies the best way to fight terrorism? The answer suggested that there was no need for any further discussion. I felt that I could stop my research immediately.

For example, say that you know about the existence of a person that is considered to be one of the most dangerous terrorists in the world, one who has been responsible for the deaths of hundreds of innocent civilians and is very much capable of continuing with his “duty.” But you do not know whether the person is the number-two ranking leader in Hezbollah or an Iranian intelligence officer. You do know that the person is constantly moving and changing locations, and you know that, when in Lebanon, for example, this person’s “safe location” is hidden behind five built-up blocks from one direction, and six blocks from the other. Thus there is no way to accomplish a physical approach or conduct an operation, or even technical surveillance. You know that “familiar face” people control all streets in this area. And you know that, in order to get at this person, you will need help from Jordanian and Israeli intelligence agencies (which you *may* get), as well as from Syrian and Iranian agencies (which you know you are not going to get), and that the Lebanese are afraid of backlash from Hezbollah if they show that they are willing to help.... How can you find this person, or at least prevent him from planning a future attack?

The only plausible answer, of course, is through cooperation. The greatest problem in conducting global counterterrorism intelligence operations today is that one single intelligence agency cannot possibly have access to all the necessary information. More intimate knowledge of a target is necessary, and only the host country’s intelligence service can provide it. It is logical that more transnational targets need more transnational cooperation. That is why I will dare to say that international cooperation of intelligence agencies is the only way to fight transnational terrorist targets.

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<sup>103</sup> Roundtable discussion with FBI agents, George C. Marshall European Center for Security Studies, Garmisch-Partenkirchen, Germany, 20 November 2007.

<sup>104</sup> Ganor, *The Counter-Terrorism Puzzle*, 47.

Of course, there are risks associated with cooperation, chief among them the danger that it might lead to the exposure of the intelligence sources working for the cooperating countries' intelligence agencies. That is why countries are sometimes less motivated to share sensitive information. But that is the risk that we have to take, because there is no alternative. (It is also important to note that agencies are not compelled to cooperate when doing so is not in their common interest.) The question is, How can we make cooperation easier? Can we impose some formal consequences for violating the rules of cooperation? Or can we perhaps create an international center for the collection of sensitive information that will be protected from those that would misuse it?

There are no signs that the present international terrorist threats are going to diminish, even in the distant future. They will only gain in lethal importance if terrorists come into possession of WMD. For this potentially more deadly aspect of international terrorism, there should be a more serious response. Intelligence agencies should become more capable of acting quickly upon the receipt of information about a potential attack. The new security environment will demand immediate reactions, and there will be no time for delay. The operational environment is such that there is concern that renditions or targeted killing will continue in the future.

In sum, cooperation among the intelligence agencies of different countries should be both increased in scope and in depth. One area where key improvements could be made is within international organizations, such as the UN, the EU, NATO, OSCE, etc. Such institutions represent a potentially powerful venue for intelligence cooperation, and one that is not sufficiently exploited. International organizations—especially NATO and the EU—have already developed systems that have been proven to be effective in many areas over long spans of time (the EU in economic cooperation, NATO as a collective provider of security). Strengthening already existing structures or forming new ones that would have much stronger mandates in coordinating or even conducting intelligence work would simplify the efforts and increase the effectiveness of the intelligence operations that they perform. The biggest obstacle to that kind of deeper cooperation is the good will of member countries. We can only hope that the seriousness of future threats will eventually change the stubborn approach of nation-states, broaden their conceptions of their national self-interest, and convince them of the importance of collaboration in the area of international intelligence.