Preface

The NATO Istanbul Summit reaffirmed the EAPC's Member States' conviction of the importance of effective and efficient state defence institutions under civilian and democratic oversight and guidance. A Partnership Action Plan (PAP) on Defence Institution Building (DIB) was introduced which seeks to reinforce Partners' efforts to initiate and carry forward reform and restructuring of defence institutions in the light of their commitments undertaken in the context of such documents as the Partnership for Peace Framework Document and the OSCE Code of Conduct on Politico-Military Aspects of Security. Given NATO's special focus on the Caucasus and Central Asia as well as Moldova, these partners are especially invited to consider co-operation on PAP-DIB related issues.

PAP-DIB[1] – as an integral part of the Partnership for Peace – is focused on the implementation of the following aspects of democratic institution building in the defence and security sphere:

- the development of *effective and transparent democratic control* of defence activities (including appropriate legislation);
- the development of effective and transparent procedures to promote *civilian participation* in developing defence and security policy;
- the development of effective and transparent *legislative and judicial oversight* of the defence sector;
- the development of effective and transparent arrangements and procedures to assess *security risks and national defence requirements*;
- the development of effective and transparent measures to optimise the *management of defence* ministries and agencies and force structures, including inter-agency co-operation;
- the development of effective and transparent arrangements and practices to ensure *compliance with internationally accepted norms and practices* established in the defence sector;
- the development of *effective and transparent personnel structures and human resource management practices* in the defence forces;
- the development of *effective and transparent financial, planning, and resource*

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[1] A detailed explanation on PAP-DIB can be found in an article by Ms. Susan Pond (NATO IS) in a previous DCAF publication, Eden Cole and Philipp H. Fluri (eds.), *Defence Institution Building: Papers presented at the Conference on '2005 Partnership Action Plan on Defence Institutions Building (PAP-DIB) Regional Conference for the Caucasus and Republic of Moldova', held in Tbilisi, 25 April 2005*, LaVAK, Vienna, 2005. This information is also available on the DCAF website: http://www.dcaf.ch/publications/defenceinstitution_conf_tbilisi.cfm?nav1=4&nav2=2

allocation procedures in the defence area;

- the development of *effective, transparent and economically viable management of defence spending*;
- the development of effective and transparent arrangements to ensure effective *international co-operation* and good neighbourly relations in defence and security matters *(ibidem)*.

The *Geneva Centre for the Democratic Control of Armed Forces*, an International Foundation under Swiss law with 46 Member States (see annex) focused on the documentation and promotion of good practice in the sphere of Democratic Security Sector Governance, is honoured to have been mandated by the Swiss government to co-operate with NATO International Staff, Member and Partner States and their pertinent institutions on the implementation of the Partnership Action Plan on Defence Institution Building. During the five years of its existence, the Centre has acquired, and in fact, documented its prowess in virtually all PAP-DIB relevant areas, and is now prepared to share its own and make the expertise of its partner institutions available to the PAP-DIB process.

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Acknowledgements

The editors would like to thank the contributors for their successful effort to provide papers on time, and to focus on the assigned domain of documented practice in a style that is essentially pedagogical and leaves little space for academic virtuosity. There will necessarily be overlaps, as each chapter is designed to be read, and make sense, by itself.

Special thanks go to the editorial support team Alex Dowling, Joseph Derdzinski, Stefan C. Imobersteg, Melissa George, LTC Ernst M. Felberbauer, Laurence Durig and Suying Lai. Joseph has also provided an excellent Executive Summary.

It is planned to translate this work into a number of languages, including Russian.

The Editors

Introduction

What Kind of Defence Do We Need?

Dr. Willem F. Van Eekelen

Defence is different, awesome and expensive. It is different from other government departments, because – together with foreign affairs – it takes a comprehensive view of the interests of the state, in contrast to the more sectoral interests of the state and its other ministries. It is awesome because the sector has the instruments for the use of force and deals with matters of its personnel's life and death. It is expensive because its budget is influenced by worst case scenarios. Moreover, if everything goes well, the armed forces have little to do, which raises the issue of their utility. The question 'how much' is enough is a perennial one. For those countries involved in collective defence in the East-West context, it was possible to estimate the needs of the moment in terms of a balance of forces, but after the fall of the Berlin wall it became much more difficult to quantify requirements. The willingness to engage in peace support operations, bringing stability to areas of ethnic and religious conflict, both within a state and in relation to immediate neighbours, became a question of ambition, choice and selectivity: at least for the old members of NATO, who were looking at new tasks. The new members understandably still attached great value to the 'old' NATO with its collective defence dimension. For all of them defence became a more dangerous profession, taking its personnel frequently away from their own country and adding tasks to their original military skills. Today, paradoxically, defence has to be seen to be active if it is to maintain support for its budget.

This picture is not universal. North and South, and rich and poor tend to view security challenges in very different ways. UN Secretary General Kofi Annan urged the world in his impressive report 'In Larger Freedom' of March 2005 to move away from the idea that some threats, such as terrorism and weapons of mass destruction, are of interest only to the northern countries, while threats such as poverty and the struggle to secure the basic necessities of human existence only concern the South. Clearly, a shared concept of security can only be developed if the connections among different challenges are acknowledged and if there is a much better understanding that many of them are in fact shared risks and vulnerabilities and require joint solutions.[1] The UN summit of September 2005, though disappointing in terms of decisiveness, at least had

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[1] Kofi Annan, 'In Larger Freedom: Towards Development, Security and Human Rights for All', Report of the Secretary General, 2005, pp. 5-6.

the merit of making that connectedness clear, and in addition propelling the notion of the 'responsibility to protect' into the vocabulary of international discourse. What the international community will do in effect, when states fail or are unable to assume that responsibility with regard to their own people, will need further clarification, but at least the absolute interpretation of state sovereignty has undergone some further weakening.

Defence and security are also interpreted as different concepts at the periphery of the relative stability of the NATO/EU area. There, the role of the military still has the primary function of defence against neighbours. In many countries of North Africa and the Middle East the army and security services are also the most important instrument for supporting the regime in power. Under those circumstances the scope for democratic controls varies greatly, as does the way ministries of defence are organised. The following pages will analyse the requirements a modern ministry of defence should fulfil, while admitting from the start that little uniformity exists. Different systems of government reflect also on the ministry of defence and the armed forces. Equally, it makes an enormous difference whether the armed services are filled mainly by conscripts or by professional soldiers on longer term contracts. That difference also has an impact on the way defence is perceived by the public. A conscript army has the sociological advantages of drawing in eligible young men from different background and regions and inducing into them a sense of responsibility and discipline. The reverse side is that many of them resent the time they have to spend on simple duties, which keep them from starting a career in civilian life. Using the metaphor of football, one could compare a conscript army with a football team, but one where the coach has no influence on the selection of the players, where in most cases there is no opponent to play against, and where – above all – part of the players don't like football! This is not to deny that a professional army has the disadvantage of not representing a cross section of society and risks not only isolation but also lower standards of education.

A conscript army functions as a massive training machine with an assured numbers of recruits. For a professional army the training requirement is less voluminous and the services benefit longer from the skills acquired, but recruitment might be a problem in times of full employment. In both cases the end-product will be judged on the extent to which the soldiers look smart and well-disciplined, and are well trained and equipped for their missions, old and new.

The Defence Task

Apart from its comprehensive view of the interests of the state, defence is different from other government departments in having generally less legislation (except for the state of siege or war, personnel policy and penal law) binding its action and also less focus on general policy and the supervision of implementation by others. Defence is directed towards the operational use of the armed services, which uses principles of business administration and is judged on its final product. The position of the ministry within the government and its relation with the head of state, prime minister, cabinet

and parliament will be discussed in other chapters. At this point the organisation of the ministry itself and the armed services is analysed.

For defence, the product consists of units of high quality, which can be deployed quickly and are capable to participate in multinational operations. In that respect the armed services are the business units of the enterprise. Applying principles of modern management raises the question of the separation between policy guidelines, execution and control, but also their inter-connection. Experience gained during operations will impact on the refinement of policy in terms of changing priorities and requirements, and the findings of control mechanisms will affect both policy and execution.

Policy will have to be formulated within the tasks given to the ministry of defence under the constitution or other legislation. These are likely to be:

- the protection of the independence and territorial integrity of the state and possible implementation of collective defence commitments;
- promotion of international order and stability;
- support of civil authorities when needed, for maintaining law and order, civil emergencies and humanitarian assistance, both nationally and internationally.

Over time, the borderline between these categories has become blurred, especially after the case for collective defence lost its priority. On the other hand, the number of cases where military support was needed has increased and has been characterised by a high degree of unpredictability and varying levels of violence and the use of force. Since 1989 we have seen a great increase in the number of multinational operations, but at a relatively low level. Nationally the brigade became the standard manoeuvre unit, and many contributions to multinational operations did not go beyond a (reinforced) battalion. Multi-nationality had the obvious advantage of spreading the risks, militarily and politically, and sharing the burden. In some cases it was the only way to muster sufficient manpower. Multi-national forces pose different requirements for strategic direction and operational command. They also raise the question how deep multi-nationality should go: if the force has to engage in actual combat, national forces would do better, but would have less political clout.

Participation in multi-national operations no longer takes place in the context of firm pre-established command arrangements with assigned forces. Recent developments went in the direction of ad-hoc coalitions with changing partners and the creation of headquarters which in peacetime had no links with assigned forces and therefore were unable to train together or certify the quality of contributions once they were forthcoming. This disadvantage has been recognised by the formation of the NATO Response Force and the EU Battle Groups, which have a fixed composition at least for a given period and will be subject to a process of certification. At the same time, most nations are adopting a modular approach to the composition of their forces, which enhances flexibility and puts a premium on close co-operation between the three services. 'Combined' (between countries) and 'joint' (between services) have become key concepts for every defence organisation. This has an immediate impact on education and training, where defence academies bring green, blue and navy blue

uniforms together in the formative stages of their officers. The same happens in the defence staff, where common services are being integrated and no longer are duplicated in each of the services. Jointness is important, but has to be a fact of daily routine before units are despatched on a specific mission.

The Defence Organisation

In any defence organisation a number of questions have to be clarified if it is to function harmoniously:

1. How will integral defence planning be effected?
2. Who is responsible for operational guidance?
3. The position of the Chief of the Defence Staff (or General Staff according to the name given to the top military officer)?
4. Who exercises the control function?
5. The principle that the general interest of the defence organisation prevails over the interests of the individual services?
6. What is the relationship between the central organisation of the ministry and the services?
7. How does consultation with other government departments take place and what subjects are covered?

Much centres on the position of the Chief of Defence Staff (CDS). He combines many functions by being the senior adviser to the minister of defence, the 'corporate planner' of the department, and the highest military commander: an almost impossible combination, which requires careful definition of these responsibilities and the appointment of deputies for the functions of planning and operations. The planning function entails the setting of priorities among the wishes of the services and incorporating them in a plan covering all activities of the department, not only those directly linked with the individual services. On the basis of this plan budgets will be allocated. However, by then it might be too late to exert real influence on running projects, a consideration which militates for drawing up a medium term framework program, which allows for periodic review. If the CDS primarily functions as a chairman of the service chiefs without some hierarchical authority, his corporate plan is unlikely to be more than a complication of service plans. If, on the other hand, he is able to set his own priorities – subject of course to ultimate approval by the political authorities – his working relationship with his colleagues is at a knife's edge.

This renders the relationship particularly delicate, because the CDS depends on information from below to judge the quality, deployability and sustainability of the units he might wish to use in his operational capacity. 'Jointness' could help in overcoming this problem, but unfortunately in most services promotion is made within their own organisation and not in the more distant place of a defence staff where service-loyalties have to be subordinated to the general interest.

The next question is: who functions as the main player opposite the CDS? Is it the secretary general of the department or the official responsible for finance and budgeting? And in which forum will final arbitration take place? Different answers are given, relating to the specificity of the matrix which is inherent in a system where functional and operational lines cross. Within each service the functions of operations, personnel, equipment and financial control have their own domain and a decision has to be made how the authority of the chief of staff of a service relates to directives which are coming through functional lines from the central organisation. The Netherlands for several decades suffered from a matrix organisation which provided for interminable discussion between all concerned, but failed to define how a decision should be arrived at.

Waves of Reform

In almost all European countries waves of reform have followed each other in close array since 1991. Each wave brought the conscription model closer to its end. Three different waves can be distinguished:[2]

1.   The downsizing wave of 1990-1995, predominantly cost-motivated and capitalising on the 'peace dividend'. Duration of military service was shortened, heavy ground-war equipment sold/disposed of, and barracks closed.
2.   The NATO oriented phase of internationalism and professionalisation 1996-2000/01, provoked by the wars in the former Yugoslavia and the Kuwait crisis. It was characterised by a conceptual and strategic transformation of the military in order to face an expanded spectrum of tasks, and a changing competence and recruiting profile. National defence strategies lost further significance in favour of a much wider security strategy, wider both in a geographical and a functional sense. Partnership of Peace (PfP) extended the notion of 'security through participation' to the entire continent. Since the number of eligible conscripts started to exceed the needs of the services, arguments of fairness and burden sharing militated in favour of a complete suspension of the draft.
3.   The third wave of reform, currently taking place since 2000/01, aims at structural modularisation and flexibilisation combined with a comprehensive professionalisation. The US started with the so-called 'Revolution of Military Affairs' and translated it into the doctrine of transformation directed at network-centred warfare. The major NATO command facility at Norfolk was re-focused with one strategic command turned into the 'Allied Command Transformation' (ACT) to push this concept throughout the alliance. Its implementation was slowed down by the 2003-ongoing Iraq crisis and its

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[2]   Karl W. Haltiner and Paul Klein in *The European Armed Forces in Transition*, Peter Lang, Frankfurt am Main, 2005.

renewed emphasis on 'feet on the ground', but nobody doubted the value of applying modern technology to military operations.

Haltiner and Klein conclude from a survey of some thirty European nations that they show a surprisingly high number of common trends and tendencies. They all seem to converge in a common trend of demilitarisation of European societies through a lowering of the ratio of people and resources raised for military purposes. The political position of the armed forces changes accordingly and their social position comes under pressure unless the consensus behind their new duties of peace support provides a new underpinning. Looking at the impact of the successive reform waves, the two authors see a number of distinct observable trends which are of paramount importance for the future position of the armed forces:

- The trend toward a constabularisation and internationalisation of the armed forces;
- The trend toward the demilitarisation of societies;
- The trend toward a feminisation of the armed forces, especially for military operations other than war;
- The trend toward civilisation and re-militarisation of the military;
- The trend toward a widening civil-military gap;
- The trend toward a renaissance of the control issue due to the downsizing, the decline of conscription, and professionalisation, which might lead to increased tensions between political and military elites.

Most of these trends are self explanatory, but the fourth one, on civilisation and re-militarisation, deserves further elucidation. What was meant concerned the development, on the one hand, of armies as multi-functional organisations, which increasingly follow economic and financial criteria of efficiency and introduce civilian expertise, especially in logistical functions. Guard duties are being transferred to private security companies and private caterers provide meals for entire brigades. Conversely, the actual military combat capability are concentrated in downsized organisational cores, which are likely to develop their own role models and military virtues. This could lead to isolation of the military in society, which in turn would give more importance to democratic control of the armed forces, not only in Eastern but also in Western Europe.

Different Models

In a democratic society the primacy of politics is universally admitted, but the way it is practiced differs greatly. A ministry of defence is a microcosm of its own. Starting in many cases as a supply organisation for the armed services, and leaving much else to the professional military, defence departments had a long way to go to adjust to changing geo-political conditions and new domestic political priorities. For defence, the future certainly is not what it used to be. With new threats facing us and the

blurring of border lines between internal and external security all will have to adjust fundamentally.

The main functions of ministries of defence worldwide are comparable. All have to deal with personnel and equipment issues; with intelligence; with relations with other ministries; with medium and long term planning processes which anticipate geo-political and technological developments. Armed forces have to be recruited, trained and equipped and, when they are on missions outside their own country, to be sustained and rotated. Peace support missions are becoming tools of foreign policy, as countries are judged on their solidarity and burden sharing by the concrete contributions they make toward peace support operations. Depending on the degree parliaments get involved in foreign policy and defence, the despatch of forces abroad becomes subject to parliamentary scrutiny, which makes justification of their mission in political and military terms a new dimension in the debate.

Overall, in looking at the practice followed in some NATO countries we see a gradual strengthening of the role of the CDS, to which this article now turns in detail in order to outline the differing solutions nations have found to improve institutional decision-making.

- **Germany**

The slowest in this process was Germany, which for historical reasons did not want to revive a General Staff and called its highest military officer the Inspector General. In fact, he did not inspect, but was the principal planning official in the department. He had no operational authority and hierarchically did not figure above the service chiefs (also called 'inspectors') but could issue directives concerning the organisation of the armed forces. His influence derived from his participation in the *Kollegium* consisting of the minister, the two parliamentary state secretaries, the two civil servants with the rank of state secretary, the director of the planning staff and the director of information.

In 2000 his position was strengthened by making him chairman of the *Einsatzrat*, consisting of the service inspectors and five heads of civilian departments within the ministry, with the task of planning the operational deployment of the *Bundeswehr*. Implementation will take place by a new joint headquarters in Potsdam with the name of *Einsatzführungskommando* with special responsibility for peace support operations and directly responsible to the minister of defence. It consists of more than three hundred officers and civil servants and is commanded by a lieutenant-general. This headquarters takes over the command of forces contributed by the three services. The service inspectors no longer have operational responsibilities but are responsible for the readiness, training and equipment of their personnel and the rotation of the planning staff of the services have been reduced.

The German defence budget is composed by the *Haushalt* directorate for the entire planning period, which then becomes the basis for a *Bundeswehrplan* drawn up by the Inspector General with proposals for allocations of funds to the different parts of the defence organisation.

- **France**

As is to be expected in a country which traditionally favours a more centralist role for the state, the French chief of defence staff (*Chef d'état major des armées*) is not only the most important adviser of the president (the commander in chief) but also has command of all military operations, including forces which are deployed for crisis management, peace support and humanitarian purposes. In addition, he is responsible for the use of forces to assist civilian authorities. His task has been formulated in a presidential decree, which also gives him a central role in defence planning. The service chiefs advise him on planning for the operational use of their forces, but their responsibilities are limited to the sustainability and readiness of their contribution in terms of personnel and equipment. The service chiefs carry 'organic' responsibility, the CDS the operational command.

In contrast with his strong operational authority, the budget of the CDS is separated out and part of the budgets of the services. He does not have a budget of his own. Equally, his planning function depends on consensus being reached with his colleagues from the services, which obviously does not strengthen his authority.

The Defence Staff consists of some 500 people directed by the deputy CDS and three assistant chiefs for general defence planning (with some 170 persons), operations, and international relations. A number of advisers (*Conseillers*) cover diplomatic, technical, health and gendarmerie issues. Operational planning takes place at a joint headquarters outside Paris which divides its work as follows:

- planning *'a froid'*, establishing scenarios for possible types and areas of action;
- planning *'a chaud'*, drawing up an operational plan for an acute crisis, upon instruction of the CDS;
- attaching personnel to crisis-staffs within the ministry of defence;
- planning and conducting of joint exercises and drawing conclusions for the establishment of joint doctrine.

The French system lacks the 'checks and balances' of a civilian counterweight of a secretary general as the main adviser of the minister. The balance emerges in the relationship between the minister and the prime minister and president, who also have a small military component in their organisation. Many political issues are handled by the 'cabinet', a small circle of personal staff of the minister, able to cut through the bureaucracy but also complicating transparency by their back-channel activities.

Budgeting is done through a *loi de programme* which sets the framework for expenditure and strategic direction for a five year period. Detailed implementation follows by separate laws, as in 1997 with the abolition of conscription and the introduction of a duty of social acquaintance with the armed forces for eighteen year-olds.

- **United Kingdom**

The British system underwent several adaptations. A major one came after the Falklands War of 1982. Previously the services had a large measure of autonomy and the CDS had a coordinating role and acted as the principal military adviser to the Secretary of State (Minister) for Defence. After 1982 the department was streamlined and a joint Defence Staff created directed by the Vice Chief of the Defence Staff under the joint responsibility of the CDS and the Permanent Under Secretary (a function comparable to that of the Secretary General in continental countries). All matters relating to strategy and policy priorities and allocation of resources were centralised in the ministry of defence. Some ten years later these lines were extended in a division of the ministry according to the main processes within a defence organisation. All operational aspects were attributed to the Defence Staff, which would henceforth include the service chiefs, and all budgetary and management responsibilities to the 'Office of Management and Budget'.

The 1998 Strategic Defence Review brought a further change by concentrating operational guidance and execution under a single person, the CDS. The CDS became the 'professional head' of the armed services in addition to his responsibility as principal military adviser of the minister and the government. The review also was important in underlining the political goals of the armed forces: they should be policy led, not resource driven. Resource constraints were alleviated by stricter priority setting and merging tasks and activities.

Within the government, the Queen formally stands at the top of command chain. Political responsibility is exercised by the Cabinet 'Defence and Overseas Policy Committee'. The CDS may be invited to attend as adviser. Within the ministry the minister, CDS and Permanent Undersecretary (PUS) (chief civil servant) form a triangle with the minister at the top and the CDS and the PUS at equal level below him. This equality of status apparently poses little problems for the pragmatically oriented British, but is difficult to accept in other countries, where the Secretary General or his homologue insists on being the prime adviser to his political masters with the right to include military aspects in his advice.

For conducting operational deployments the CDS disposes of a defence Crisis Management Centre in a bunker below the ministry and led by the Deputy Chief of Staff for Commitments. Its purpose is to advise the political authorities on the military-strategic aspects and policy aspects of the crisis, to prepare political decisions and to issue clear guidelines to the relevant military headquarters. This does not involve direct command over the units participating in an operation; that is entrusted to the Permanent Joint headquarters under the Chief of Joint Operations who normally functions as Joint Commander of UK led missions, joint, combined or otherwise multinational; he also is responsible for the operational command of UK forces in missions led by other nations or international organisations.

The British system not only expressly aims at an overlap between political and military aspects but also puts limits on a strict hierarchical approach, which often is applied in other countries. The service chiefs maintain the right to direct access to the minister and even to the prime minister. A recent example was the approach of the CDS and his colleagues to the prime minister to ascertain that the participation in the

Iraq war was in conformity with international law. Inside the ministry they participate in the Chiefs of Staff Committee, which is also attended by the PUS and a representative of the Foreign and Commonwealth Office (the foreign ministry). Their cooperation is exemplified by the housing of all these defence officials at the same floor in the ministry.

Next to the Chiefs of Staff Committee functions the Defence Management Board which deals with the planning and budgeting processes and is formed by the same individuals, but this time with the PUS as chairman, plus the chief executives of the Defence Procurement Agency, the Defence Logistics Organisation and the Chief Scientific Adviser. The two committees come under the Defence Council which includes the ministers of state and the parliamentary undersecretary and most of the personalities mentioned and constitutes the highest formal body in the ministry. The ministry of defence includes 5500 persons, civil servants and officers taking roughly equal proportions.

- **Canada**

Canada was a pioneer in practicing 'jointness'. The National Defence Act of 1964 put an end to the existence of three separate services, each with their own minister and commander, and a lopsided overhead of some two hundred inter-service committees. All three were put under the command of the CDS and logistics and training were integrated. Full unification followed in 1968 - in 1972 this revolution was undone, each branch reviving its own ranks and uniforms.

As in the British system the CDS and the senior civil servant, here called Deputy Minister, are at equal level, but the CDS is allowed to advise the prime minister and cabinet directly on important military developments. CDS and the service chiefs and the deputy minister are housed in the National Defence Headquarters which numbers some 8500 staff, both military and civilian. Policy and defence planning account for some 300 persons. Operations which are not of a routine character are led by a 'joint commander' and the Deputy Chief of Defence Staff acts as 'force deployer'.

Defence planning is based on a 'Defence Vision' for the next fifteen to twenty years elaborated by the CDS and Deputy Minister together and approved by the minister. It provides an assessment of the strategic environment, the defence requirements of Canada, the priorities of its government, and the budgetary possibilities and constraints. Derived from these analyses are the military requirements, the capabilities needed, options for their realisation and the financial, personnel and material consequences. Every two years a Defence Plan is established for the next five years, which in turn is the basis for the business plans of the service chiefs.

A special characteristic of the Canadian system is the double-hatted function of the Vice Chief of Defence Staff who acts as chief of staff for both the CDS and the deputy minister. The checks and balances are contained in a matrix of assistant deputy ministers and service chiefs. The Defence Management Committee meets monthly under the combined chairmanship of the deputy minister and de CDS. The same applies to the Daily Executive Committee. The Armed Forces Council meets regularly to advise the CDS on matters of command and control. The Senior Management

Oversight Committee chaired by the Vice CDS prepares decision-making on important projects. Both CDS and the Deputy Minister appear before the Select Committees of the House of Representatives and the Senate in a spirit of transparency and accountability. No formal rules exist.

The examples of these four countries indicate the different ways in which politicians, officers and civil servants deal with the management of their ministry of defence. All are moving towards jointness and larger responsibilities for the Chief of Defence Staff. Canada and the UK have exemplary cooperation between the CDS and the senior civilian official. All models show the essential function of planning, policy and execution. Most profess that these should be kept separate, but in many cases the distinction is not as clear as paper diagrams might suggest. Practice varies even more in other parts of the security sector: the police, intelligence services, border- and coast guards. Yet it is possible to arrive at some criteria for their effectiveness, and, in the context of democratic control of armed forces, for the place of defence and security in a democracy. Again, democracy takes many forms, but all of them centre around the way in which governments reveal, explain and justify their policies and their acts.

The Structure of this Sourcebook

This book aims at being a sourcebook on defence institution building, drawing on established practice in Western Europe but also on recent experience among the new members of NATO. All contributions focus on ongoing reform processes in old and new members alike, as determined by defence posture changes. Inevitably, there will be some overlap in analysis and conclusions, but the overall sense of direction is remarkably coherent. Partnership for Peace (PfP) and the membership action plans have produced a common approach towards defence planning and military cooperation. This development confirms the old saying that military people have no difficulty in finding solutions to a problem, but diplomats and politicians do. In any case, working together on common problems is the best way to build mutual understanding and trust, which are the essential elements for stability and security.

The reader will find several places where the differences between defence and other government departments are explained. This introduction dealt with it as well as my own chapter on legislative oversight. Jan Trapans discussed it in his chapter on 'Democracy, Security and Defence Planning'. But being different cannot imply exemption from democratic processes, even if the seriousness of the issues at stake and claims of secrecy might put some limits to full transparency.

The book starts with a comprehensive analysis by Fred Schreier of the new division of labour in the defence and security sphere, starting from the premise that the security institutions should serve the security interests of citizens, society and the state, while respecting human rights and operating within the rule of law and under effective democratic control. One of his points is the significant stock of operational experience European countries have in dealing with terrorists of different persuasion. He also underlines the premium attached to better capabilities of force projection in terms of reach, range, speed of action and sustainability.

Hans Born traces the norms and standards of democratic governance of the security sector, and the characteristics of political systems and parliamentary defence committees in a number of countries. His conclusion centres on the shared responsibility of parliament and government for foreign and security policy, which can be fostered only by trust, open lines of communication and mutual respect. Ultimately, parliament is the source of legitimacy.

Much depends on the state of a country's civil-military relations. This introductory chapter has given some examples of the arrangements in developed western democracies. In many other countries the relationship between minister of defence and the CDS is not as harmonious and requires careful attention in order to establish the primacy of politics. Police and judicial cooperation are increasingly acquiring an international dimension in the continued coalescence of internal and external security. This raises issues of freedom versus security, but also of the fundamental rights of service personnel. Chapter Three terminates with a section on how civilian influence could be promoted.

Chapter Four focuses on legislative oversight of the security sector. The crucial issue here is the degree to which oversight translates into real influence over the decisions of the executive. Parliamentary authorisation is an important instrument for such influence. It stretches beyond the power of the purse if parliamentary consent is required for the despatch of forces to missions abroad. Here we find the specific tasks of a defence committee, but also a brief treatment of the judicial aspects of military discipline and penal law, as well as of the important norm-setting effect of the OSCE Code of Conduct published in 1994. The chapter ends with a draft for a new security agenda to enable a coherent approach to conflict prevention, democratisation, human rights protection and development.

Jan Trapans uses his experience as a former Latvian Minister of Defence to give us an insight into the process of threat analysis and the establishment of a risk assessment in larger and smaller countries. He describes the Baltic threat and risk situation as both a military and political equation. Increasing the size and readiness of armed forces is matched by bilateral and multilateral agreements, the joining of a collective defence alliance, but also by generating confidence building measures with their neighbours. In Chapter Six, he puts security and defence planning in a democratic context. He traces the Western method of planning, starting with a threat perception, followed by a national security concept as the basis for a defence policy and a military strategy. Subsequently, force plans are developed and the corresponding doctrines and training schedules. A coherent planning process is essential to substantiate manpower and material requirements, which in turn are necessary to make the case for annual budget. Trapans also underlines the importance of a sustained flow of information to parliament, preferably by a mix of annual statements on budget and policy, but also by progress reports on medium term programmes and long-term plans. The chapter ends with a description of the steps involved in NATO enlargement.

In Chapter Seven Victor-Yves Ghébali elaborates on Sections VII and VIII of the 'OSCE Code of Conduct on Politico-Military Aspects of Security (1994)' efforts' to supplant international norms with the idea that power is the only justifiable state tool to guarantee state security.

Obviously, personnel policy is a crucial element of defence policy in a democracy. Today, the soldier is regarded as a citizen in uniform, entitled to as many civil rights as possible and clear criteria for promotion. Ferenc Molnár uses the case of Hungary to describe the principles and practices of personnel policies. Hungary's NATO membership brought a unique opportunity for the transformation of the military, but it was not easy to get away from previous practices. The capability-driven approach of NATO and the commitments made at the Prague summit were an important stimulus for improving professionalism and using education and training for enhancing integration into NATO procedures and practices.

Financial planning and resource allocation are the lynchpins of a defence ministry, which by nature depend on the realisation of multi-year programmes. Defence is a matter for the 'long-haul' and new priorities have long lead times. We have seen examples in Eastern and Western Europe of ambitious programmes having to be cut back because the expected financial resources were not forthcoming. NATO would like its members to spend 2% of GDP on defence, but few members meet that ambition. Hari Bucur-Marcu analyses the resource allocation dilemma in Chapter Nine and makes the point that a bottom-up budgetary system issued by subordinate elements in the system may lack coherence and sufficient information of the urgency of each request. Equally, during the bargaining phase of budget preparation the trade-offs between operating costs and procurement, and between personnel costs, operations and maintenance, are among the hardest decisions a minister of defence has to take.

Mihály Zámbori takes this a step further in Chapter Ten with his analysis of task-oriented planning in the Hungarian Defence Planning System. One of the important points made here is that a well-organised, independent and continuous controller-function is a main tool of assessing the fulfilment of tasks. His paper includes an impressive detailed checklist of the economic tasks of maintaining and developing the military by judicious allocation of resources.

Pál Dunay in Chapter Eleven discusses the arrangements for cooperation and good neighbourly relations which have emerged after the end of the Cold War. He pays particular attention to regional and sub-regional arms control as part of that neighbourhood policy. The Vienna Mechanism of 1990 for consultation in case of unusual military activities added an arrangement to deal with unpredictability. The Stability Pact for South-Eastern Europe fostered intra-regional cooperation, but at the same time made continuation of the accession process towards the European Union conditional upon progress in cooperation with neighbouring countries. The recently developed near neighbourhood policy of the EU addresses states which – for the time being – have not been given the prospect of membership. In the course of his analysis, Dunay makes two some important remarks which go beyond the scope of his subject. The first concerns the present state of world affairs, where the US obviously is the leading power possessing military superiority: but, in economic relations, however, the international system shows signs of multi-polarity. The second relates to the often professed notion that security is indivisible. There is nothing automatic in this concept and to a certain extent regional cooperation will even enhance the specificity of security arrangements. Yet, growing interdependence and the risk of spill-over of instability demand the introduction of more 'non-polar' elements of cooperation.

The second contribution of Fred Schreier deals with intelligence management and oversight, a subject which has received relatively little attention in Europe, but acquires added importance in the light of the current coalescence of internal and external security. In most of the military operations of the past fifteen years the underlying intelligence has been subject to severe criticism. DCAF rightly has given this subject a prominent place in its activities, for it involves several dilemmas for a democratic state. The collection of secret information which is used to underpin public policy is bound to create tensions with regard to accountability and requires a clear demarcation of responsibility. Schreier points out the factors shaping the new paradigm of intelligence management: the subject matter has increased enormously, particularly with the emergence of non-state actors; the need for intelligence sharing and international cooperation has grown but is limited by *quid pro quo* practices and doubts about the reliability of sister organisations; and changes are underway in both information technology and in how the information is used. Democratic oversight cannot be identical to that practiced with regard to other governmental functions and needs special arrangements. But it cannot be neglected.

My own contribution on defence procurement develops a model sequence in decision making and parliamentary approval. It also describes the emergence of a European Security and Defence Policy, which in 2004 took an important step forward in establishing the European Defence Agency (EDA). EDA has the ambition of combining operational requirements, research and technology, development and acquisition, rounded off by an evaluation of whether the final product meets the original (and changing) requirements. The paper emphasises the 'What For?' question and analyses a number of European and American scenarios to assist in answering it.

In Chapter Fourteen Robert Pszczel emphasises that the media and the state need not necessarily have contrasting views to be in fundamental opposition to one another but may benefit from the positive effects of a symbiotic work relationship, especially, in their common search of enhancing exposure for state activities. Hari Bucur-Marcu then calls attention to the importance of establishing a well balanced perspective that is finally communicated to the public in 'Defence Institutions and Information Policy'. Defence matters no longer are taken for granted but are questioned for their validity, efficiency and even morality. The internet, a very important tool of information sharing in today's world, has the capacity to disburse unclassified, non-sensitive information to the public in a fast and uncomplicated manner.

The final chapter by Velizar Shalamanov places defence management and reform in the framework of civil society. In order to analyse best practices in defence management he draws up a 'business model' with the government as executive directors, the prime ministers as CEO, the ministry of defence as general management and the armed forces as production units. It is a useful analytical tool, even if every comparison has its limits. His listing of the functions any defence organisation has to incorporate deserves to be read first by those who are not fully familiar with the way a ministry of defence operates, both internally and externally as a part of the government. The other side of the coin is the scope of civil society, which has entered the field of defence and security in a big way since 1989, enabled by processes of transparency and accountability. The participation of civil society in the debate on current defence issues

is a precondition for maintaining public support. In fact, these debates are most effective when they are organised not by the ministry of defence but by non-governmental organisations, think tanks and research institutes.

Dr. Willem F. Van Eekelen

Geneva, March 2006

Chapter 1

The Division of Labour in the Defence and Security Sphere

Col. Fred Schreier

The Changing Face of Security

Too often security is still confused with defence. Traditionally, security has been understood first and foremost in terms of 'national security': as defence of the national territory against military threats by other states. The end of the Cold War, globalization, new risks, dangers and threats as well as domestic changes has dramatically altered the security environment facing states. Most states today confront a broad array of security challenges that are more of a non-military rather than a military nature, requiring diverse responses. As the limitations of military- and state-oriented concepts of security have become more evident, a broadening and deepening of the concept of security ensued, which has been extended from its exclusive focus on the security of the state and its territory to also include the security and safety of individuals, communities, society, regions or even of the international system. Risks and dangers other than military threats have been added to the security agenda, such as environmental degradation, socio-demographic challenges, and the spread of infectious diseases, trans-national terrorism and organized crime.

The most recent addition to the concept of security is that of 'human security'.[1] It denotes a fundamental shift in emphasis away from the state towards the individual as the primary focus of security. This new concept is based on the premise that the well-being of people, as opposed to the survival of the state, should be the principal object of concern, and it shares many similarities with related concepts such as human rights and human development. The Human Development Report of 1994, the principal components of which are 'freedom from fear and freedom from want', defines human security as people's 'safety from chronic threats' like hunger, disease, and political repression, as well as 'protection from sudden hurtful disruptions in the

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[1]   See e.g. Human Security Network, at URL http://www.humansecuritynetwork. org/; and *Bibliography on Human Security*, Harvard Program on Humanitarian Policy and Conflict Research: Cambridge, Mass., August 2001, at: http://www.hsph.harvard.edu/hpcr/events/hsworkshop/bibliography.pdf

patterns of daily life'.[2] UN endorsement was a powerful incentive to policymakers in a number of countries. By the end of 1999, a group of these countries had launched the Human Security Network which, today, includes 12 countries[3] holding ministerial-level meetings annually. It sees itself as an 'informal, flexible' mechanism for 'collective action', bringing 'international attention to new and emerging issues' and seeks to apply a 'human security perspective' to 'energize political processes aimed at preventing or solving conflicts and promoting peace and development'. Moreover, it has been of instrumental help in a variety of international issues: the elimination of landmines; the control of small arms and light weapons; the establishment of the International Criminal Court; the international ban on the use of child soldiers; human rights education and human rights law; the struggle against international crime; and the fight against HIV and AIDS.[4]

South Africa was among the earliest subscribers to the new thinking, redefining security in its 'White Paper on Defence' of 1996, which captured the clearest expression of human security so far on record.[5] The Japanese Prime Minister Obuchi made the concept the defining characteristic of Japanese foreign policy, instituting in 1998 a 'Trust Fund for Human Security' in the UN Secretariat and funding it generously.[6] Another of the principal advocates of the human security agenda, Canada, also had made human security the foundation of its foreign policy, defining it as 'safety for people from both violent and non-violent threats … characterized by freedom from pervasive threats to people's rights, their safety, or even their lives'.[7] The concept is promoted by the UN Secretary General, Kofi Annan, who instituted a Commission on Human Security whose final report in 2003 has resulted in a permanent UN Advisory Board on Human Security.[8] In 2004, the new paradigm received another ringing endorsement when the EU published the Barcelona Report of the Study Group on Europe's Security Capabilities entitled 'A Human Security Doctrine for Europe', and calling for a 'human security crisis response force'. This force would have a heavy civilian specialist component skilled in conflict prevention and social reconstruction. Even its standing military component would be heavily imbued with a human security ethic.[9]

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[2]   UNDP, *Human Development Report 1994*. It lists seven components of human security: economic security, food security, health security, environmental security, personal or physical security, community security, and political security.

[3]   Austria, Canada, Chile, Greece, Ireland, Jordan, Mali, the Netherlands, Norway, Switzerland, Slovenia, and Thailand. South Africa is participating as an observer.

[4]   See: http://www.humansecuritynetwork.org/network-e.php

[5]   *South African White Paper on Defence*, Pretoria: Department of Defence, 1996.

[6]   Gilson, Julie & Purvis, Phillida, "Japan's Pursuit of Human Security: Humanitarian Agenda or Political Pragmatism?" *Japan Forum: The International Journal of Japanese Studies*, No. 15, June 2003, pp. 193-207.

[7]   Canada Department of Foreign Affairs and International Trade, *Human Security: Safety for People in a Changing World*, Ottawa: Department of Foreign Affairs, 1999, p. 5.

[8]   See: http://www.humansecurity-chs.org/abhs/index.html

[9]   For details on emerging European thinking on this topic, see: http://www.iss-eu.org

Despite its increasing usage, this new concept of human security is yet to be clearly defined, and seems to carry a slippery range of alternative definitions. It has been criticized for the use of excessively broad and vague definitions, as undermining its analytical utility for researchers and its effectiveness as a guide for policymakers.[10] For some, the association of human security with the UNDP either commends its value or undermines its validity, regardless of the content. For others, it connotes an exiting, or troubling, consensus on security themes by a putative global intelligentsia. While some governments have embraced it as the foundation for their national foreign policy, others are at best ambivalent or, more commonly, sceptical. Thus, can any concept still so unclearly defined and contested really have much utility? Or more to the point: should the defence and security sector pay any attention to it? We argue in the affirmative, acknowledging that it is a paradigm gaining in prominence and may be an important part of the conceptual environment in which defence and security forces will have to act in the future.

One important definitional issue – and one on which many advocates differ – is the degree to which human security should govern the security landscape. The original UNDP formulation argued that human security should be the dominant security paradigm. But Canada and Japan, both members of the Human Security Network and committed to a human security approach in their foreign policy, make a clear distinction between 'human security' and 'national security'. Neither Canada nor Japan appears to prioritize one security paradigm above the other. Canadian documents describe them as 'complementary'.[11] Thus, the failure of the paradigm to date to achieve preeminence over competing conceptions of security is reason enough to continue to use the more mature concept that has been developed in the post-Cold War environment to deal with the complexity of contemporary security concerns: Security Sector Reform. It is a relatively new concept that now shapes international programs for development assistance. It shares with the concept of human security a concern for the welfare and safety of individuals, groups and society. The objective of Security Sector Reform is to achieve efficient and effective security institutions that serve the security interests of citizens, society and the state, while respecting human rights and operating within the rule of law and under effective democratic control.[12]

The advantage is that the area of Security Sector Reform concern is the state's capacity to provide effective and accountable management of national security. It is state-centric in its focus on state institutions, legal and regulatory frameworks, and security policy, without necessarily prioritizing military security or dismissing the

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[10]   See e.g. Paris, R., "Human Security: Paradigm Shift or Hot Air?", *International Security*, Vol. 26, No. 2, Fall 2001, pp. 92–93.

[11]   Canada Department of Foreign Affairs and International Trade, *Human Security: Safety for People in a Changing World*, pp. 5-6.

[12]   Hendrickson, D., and Karkoszka, A., "The Challenges of Security Sector Reform", *SIPRI Yearbook 2002: Armaments, Disarmament and International Security*, Oxford University Press: Oxford, 2002, pp. 175–201; and the United Nations Development Programme (UNDP), "Democratizing Security to Prevent Conflict and Build Peace", *Human Development Report 2002: Deepening Democracy in a Fragmented World*, Oxford University Press: New York and Oxford, 2002, pp. 85–100.

public security requirements of individuals and groups within society. All states can benefit from reviewing their approaches to security from time to time. However, Security Sector Reform is particularly necessary for, and concentrating on, developing countries, countries in transition from authoritarian regime to democratic rule, and states seeking to re-build following destructive wars or to escape cycles of political violence and human rights abuse. Today, it is commonly acknowledged that security and conflict are intimately related to democracy and development. The UNDP maintains that most countries that have experienced armed conflict over the last decades have authoritarian regimes, and are among the poorest countries in the world.[13] Hence, Security Sector Reform is addressing states where a fundamental rethinking of security concepts and principles is the precondition for any meaningful reform of both the security and defence sector.

Since it is often defence and security institutions themselves that threaten the security of individuals and society as a whole, whether through inefficiency, lack of professionalism, inadequate state regulation, corruption or human rights violations, Security Sector Reform focuses on the sound management and accountability of the defence and security sector consistent with democratic principles and practices of good governance. The good governance objectives promoted by Security Sector Reform – democratic accountability, civilian control of security structures, clear demarcation between internal and external security mechanisms and approaches, the rule of law, an independent judiciary and a strong civil society – are implicitly based on 'good practices' and norms, rules and laws governing behavior that has evolved within mature democratic states. Moreover, there is general consensus on the importance, and support as a guide for policy, of these norms and good practices in governance of the security sector by a growing range of international actors.[14]

Democracies maintain security forces responsible for internal security and a state sector responsible for the defence of the nation. Defence is normally a matter of external threat, and as such may be limited in space and even time. What is at stake is the elimination of the threat. Since potential threats can mutate and rapidly change into actual threats, preparedness and a system for quick elevation of readiness or mobilization is required for defence. Establishing and maintaining internal security is a matter of preventing and countering threats to domestic stability; public order; safety of individuals, communities and society from violence; the continued orderly functioning of the state and its institutions; and sustainable socio-economic development. It is also the state, sometimes together with regional or local authorities, that ensures this security. But the forces are different. The military would provide defence, and civilian forces would deal with security.

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[13]   United Nations Development Programme, *Human Development Report 2002*.

[14]   They include international organizations: the UN, the United Nations Development Programme (UNDP) and the Organization for Economic Cooperation and Development (OECD); regional organizations: the EU, the Council of Europe, the Organization for Security and Cooperation in Europe (OSCE), and NATO; as well as various NGOs. To specify advanced norms and good practices within and among democratic polities reflects the implicit assumption in Security Sector Reform of the potential influence of such norms on relations between states, and hence on international peace and security.

International organizations, NATO and the EU no longer distinguish between defence and security, calling the whole the *Security Sector.* This is understood to comprise all bodies and forces whose responsibility is the protection of the state and its constituent communities. It includes core structures such as the armed forces, all law enforcement and paramilitary forces, intelligence and security agencies, customs, coast and border guards as well as those institutions that formulate, implement and oversee internal and external security policy.[15] The EU and the European Parliamentary Assembly subdivide the security sector into four main sectors: *defence*, the *police*, *intelligence services*, and *border management*.[16] To deal with our subject of the division of labour in the defence and security sphere, we will continue to distinguish between the *defence* and *security sector* but adhere to the subdivision into the four main categories of defence, the police, intelligence services, and border management.

Although the security and defence spheres are often considered as distinct and separate, in reality they often overlap or merge. Tasks and categories of personnel are especially blurred in developing or poor countries, and even more so in failing or failed states. There exist non-statutory forces that may have arisen from the state's inability to meet local community security needs, which have usurped roles that are neither in the security interest of society nor covered by national legislation. Similarly, guerrilla forces and private armies may operate and challenge state authority. Alternatively, the state may condone the provision of security by private military and security firms or may receive reform assistance through foreign private contractors. In each of these cases, Security Sector Reform must take into account the non-statutory security forces, whose presence may signal deficiencies in the state's monopoly over the application of force and in its capacity to protect the state and communities within it, or the de facto devolution of some of the state's responsibilities to provide security.

The Division of Labour in the Defence and Security Sphere

Definitions of the division of labour abound. In general, the division of labour is the breakdown of labour into specific, circumscribed tasks for maximum efficiency of output, particularly in the context of manufacturing – or also the specialization of the functions and roles involved.

There are many reasons for a division of labour in a government or in a state. Among the most important are that democracy requires an optimally balanced distribution of power between the different institutions in a state, particularly in the defence and security sphere – both of which are the source of, and share, the state's monopoly of controlling and applying violence. No single organization should be either so powerful, or so dominant and influential, that it could endanger the proper functioning of democratic processes. There are two prerequisites for better balancing

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[15] The definition of the security sector is discussed in Hendrickson and Karkoszka, "The Challenges of Security Sector Reform", op. cit., p. 179.

[16] See for example: Council of Europe, Parliamentary Assembly, *Democratic Oversight of the Security Sector in Member States*, Report Political Affairs Committee, Doc. 10567, 2 June 2005, at: http://assembly.coe.int/Documents/WorkingDocs/doc05/EDOC10567.htm

power: a clear division of responsibility in missions and the provision of services, and clearly defined obligations of accountability. This enables the elimination of overlapping missions, and of redundancies in budgeting, resources, and activities. Moreover, unambiguous attribution of responsibility and accountability creates the basis for a more effective and more efficient execution of the mission. At the same time, it enhances both the transparency of the institution and its activities, and facilitates the professionalization of the organization – which, in the final analysis, is much of the answer to the elimination of lingering shortcomings.

The division of labour is in essence a matter of 'rule sets': rules that delineate how activities normally unfold in a democratic state, and how these are planned, organized and controlled. Soccer has a rule set; so do hockey, baseball, football, and basketball. These rules tell you how to keep score in the game, what constitutes unfair play, and how everyone is supposed to behave when they are on the field or court. These rule sets are distinct; one cannot start baseball by soccer rules or vice versa. So playing by the appropriate rule set is how we keep any game from collapsing into chaos. It is why we have referees and umpires; they enforce the rules so everyone playing gets roughly the same chance to succeed. There are also rules concerning defence, security, conflict and violence domestically or in inter-national affairs, such as international humanitarian law or human rights law. The field of national security, like any field of endeavor, is full of rules that are distinct, can be described, and which can be applied to the division of labour operating both vertically and horizontally.

There are many aspects from which to form a view of the division of labour in the defence and security sphere. In the following, we will look at how this is done in four cases: (1) *within the structures of the organization of a state;* (2) *in a state;* (3) *in changing situations;* and (4) *for border security in the EU*. And since there are different possibilities for the division of labour, we will look at the *differences in the approaches taken in the fight against terrorism in the US and in Europe*.

The Division of Labour in the Defence and Security Sphere within the Structures of the Organization of a State

In a democracy, all government measures and all actions of agencies or governmental organizations, including those of the bodies and forces of the defence and security sector, must be both lawful and legitimate. To ensure this, democratic control and oversight is required as a principle of good governance. Democratic control and oversight refers to a multi-actor, multi-level concept of governing the defence and security sector. It includes state oversight bodies, such as the *executive, legislative, judiciary*, and other, independent oversight bodies. And it makes use of a series of specific tools intended to ensure *political accountability* and *transparency* of defence and security organizations. These instruments include constitutional principles, legal rules, institutional provisions, as well as more general activities aimed at fostering good relations between the various parts of the defence and security sector on the one hand, and the political powers – the executive, legislative and judiciary – and representatives of civil society on the other: political parties, media, NGOs, etc.

The various control and oversight institutions play different roles. The *executive* is responsible for controlling the defence and security sector on a day-to-day basis. The *parliament* deals with the general oversight of these sectors, the intelligence and security services as well as the forces for border management, including adopting the budget, enacting adequate laws, and conducting inquiries in case of wrong-doing or failing performance. The *judiciary* plays a crucial role because it gives or withholds authorization for the use of exceptional powers with a high potential for human rights violations, and prosecutes members of the intelligence and security services in case of abuse. *Civil society* performs the function of watchdog and can provide the public with a second opinion, in addition to information coming from the government. Increasingly, international organizations play a role, and provide guidance and direction for its member states by adopting conventions or codes of conduct on issues such as civil-military relations and the role of human rights in the fight against new threats like terrorism.

The objectives of democratic control and oversight can be grouped into three clusters: *legality* – to oversee that the bodies and forces are functioning within the boundaries of the law; *legitimacy* – to oversee that the will of the majority in parliament prevails, that the human rights of individuals and minorities are protected, and that the main principles of good governance are respected; and *efficiency* – oversee that the bodies and forces are sufficiently resourced, that they spend their resources efficiently, and that their activities are geared toward the goals as designated by the elected authorities.

Public calls for greater security and protection often lead governments to adopt *exceptional measures*. These must be truly exceptional as no state has the right to disregard the principle of the rule of law, even in extreme situations. *Exceptional measures* in any field must be supervised by parliament and must not seriously hamper the exercise of fundamental constitutional rights. At all events, there must be statutory guarantees preventing any misuse of exceptional measures. And all actors must be vested with clearly defined responsibilities.

On the matters of who is responsible for defence, and who for security, and how this is to be done, democratic doctrine calls for clear separation. Thus, aiming at good governance, defence and security sector reform is focusing on developing certain types of defence and security relationships most commonly associated with liberal democracy. One of its most significant objectives is the *separation of powers and tasks between security and defence forces*, both of which share the monopoly of controlling and exercising violence in a state. Traditionally, boundaries between the military and law enforcement or police have been oriented according to their respective spheres of influence in relation to the state: the *military being externally* and the *police internally* oriented. This external orientation of the military historically stems from the role it played, primarily via war, in creating the nation-state.[17] After building the nation-state, initial boundaries were drawn between the military and the police. The withdrawal of the military from direct participation in the internal affairs of the state involved not the

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17 Giddens, Anthony, *The Nation-State and Violence*, Los Angeles: University of California Press, 1985, p. 192.

decline of war but a concentration of military power 'pointing outwards', toward other states in the nation-state system. As the nation-state evolved, the external focus of the military reduced the dependence on military force as a means of governance and gave law enforcement and policing agencies the role of domestically maintaining order. By the late 20th century, this distinction began to blur, leading to claims of role and jurisdictional overlap between these two professions. Ever since 9/11, this trend is accentuated.

The key enabler of effective separation is seen in the relation to the ministries to which security and defence forces answer: the defence forces to the Ministry of Defence, the security forces to the Ministry of the Interior or, in some states, to the Ministry of Security or the Ministry of Justice. The ministers and ministries in charge are the key civil controllers of the defence and security forces. They have to ensure the submission of the respective forces to legal civil authorities. But at the same time they are obliged to ensure and protect the professional autonomy of the forces subordinated. The ministers propose the budget and laws to parliament and, upon the adoption of the budget, transfer the funds to the end users and monitor their spending. They are the only ones authorized to direct, administer and manage these forces, but only in accordance with the constitution, law and strategic documents. They therefore must not independently change the purpose or the intentions of the forces, and they have to take all decisions on the use of these forces in a constitutionally and legally defined procedure.

Civilian Control

Separation is most meaningful when *civilian control* is assured. The constitution must clearly state the highest level of command above the defence and security sector. The chain of civil command of the defence and security forces usually, in hierarchical order, includes the president of the state, the prime minister, the ministers, and those in charge of each of the forces or formations. If it is not the president, the prime minister will be in charge of the foreign, security and defence policy of the country and has the relevant ministers subordinate to him. The ministers are superior to the heads of the armed forces, police, secret services, and other security forces and are accountable to the prime minister and also to parliament. The parliament, if dissatisfied with the situation in these forces, may depose the government or only the relevant ministers. In order to avoid later confusion or even exploitation of loopholes, the various responsibilities of each political actor with reference to the defence and security sector must be clearly enumerated in the constitution or at least in statutes. Likewise, the relationship of the professional directors of national intelligence and security agencies to government must be clearly stated. Given the likelihood that assets or manpower of the armed forces may also be urgently needed in peacetime for homeland defence or in the event of natural or man-made disaster and other emergencies, the constitution must stipulate under what terms the forces may so be used, and under whose authorization. The most effective standard way of accomplishing this is to enumerate various levels of emergency and related contingencies. Within this, it is advisable to establish up-front the exact operational relationship between the armed forces so deployed and the police,

so as to guarantee for continual *'police-primacy'* under all scenarios *excluding armed conflict or war*. As to armed conflict itself, the constitution should also clearly state which body has the right to declare a state of emergency or war, what the role of parliament is under such, and whether or not special temporary bodies need to be created in such events. Additionally, it will be necessary to clearly regulate the procedure for allowing foreign troops to be stationed in the nation and also for re-deploying these troops abroad in circumstances other than war.

For making the defence and security sector fully and unambiguously operational, the constitution in itself is not enough. Additional documents are required, whether at the level of national statutes, or parliamentary or governmental resolutions, that state in logical fashion and to a reasonable level of detail the *national interests*, the *national security strategy*, the *raison d'être and missions of the armed forces and civilian security forces*, and the goals and timetables of any restructuring of the defence and security sector. These documents must gel with not only the constitutional obligations of the government but also any international commitments the nation may have. Moreover, these documents must be based on political consensus of the major *political parties* and *civil society actors*, and not just the government, representing as they do issues of national import.

When all these aspects of division of labour under civilian control are clearly decided, regulated, and culminate in well-working democratic mechanisms, then civilian control is best assured when the democratically elected *top executive civilian leadership is assessing the threat*, and the security and defence forces are acting, each separately but coordinated, in accordance with that threat assessment.

The National Security Council

The establishment of a National Security Council (NSC) can help to ensure that the threat assessment and decision-making in the domain of national defence and security by the top civilian executive leadership is taken out of the confines of the defence and security forces or of individual intelligence and security agencies and occurs within the *civilian policy sectors*. The NSC coordinates the activities of the different defence and security actors, and serves as the principal advisory body for the government on defence and security matters. It can inform and advise the president and prime minister on defence and security; enable the sharing of intelligence and information among the different actors in the defence and security sphere; review national defence and security goals, needs and policies; brief the government and relevant parliamentary committees; and serve to channel information from lower-level security committees at the regional or district level. Keys to ensuring that the NSC can perform its functions effectively are its composition and degree of empowerment. The members should include the full range of relevant defence and security agencies as well as other civilian policy sectors such as finance, foreign affairs, economics, and justice. This will encourage a more holistic defence and security analysis. And the NSC must be effectively operational, convene regularly, enjoy adequate administrative support, and operate within a clear legal framework. Moreover, to operate effectively, there is often a requirement for a dedicated National Security Office (NSO) or agency charged with supporting NSCs

activities. A NSO can help centralize information and intelligence collection in a systematic manner so that this can be made available in a timely and useful fashion to senior government decision-makers.

Among the principles that should guide the separation and division of labour are: police and military powers must complement each other, with a country's police addressing domestic security and its military focusing on external threats; police should be regarded as *civilian* or *specialist police*, rather than military; the service element of policing should be emphasized; military officers, other ranks and units should not exercise police powers; the use of servicemen or conscripts to police should be avoided; security organizations having both police and military functions – such as the border guards or the coast guard, for example – should be designated as *specialist police* subordinate to the ministry of interior; and measures should be taken to avoid politicization in all defence and security organizations.

Separation is both a concept and a system for the division of labour. Its principles and procedures should be formalized in legislation and in training. *The formal role of the police should dominate most aspects of the country's domestic security architecture and activity*. Enshrining this in legislation can help protect the separation of powers, and facilitate independence of the police. It can also assist in ensuring that the military do not claim or employ police powers and that military security and intelligence units do not regard themselves as the state's only defence against internal enemies. Education programs are essential if separation is to be meaningful. This applies to the civilians working in security organizations as well as to the organizations themselves. Distinct and specialized education and training programs should be developed aimed at professionalization of the defence and security sector.

The Ministries

Governments need to have policies and programs in place, to allocate and manage the necessary resources; respond to crises; and to defend their activities before parliament and public. These activities are typical of those carried out by a generic ministry in any government. There will be technical advisors, although the running of the ministry will be in the hands of career civilian officials. There are reasons of practicality why a ministry should be a civilian-led organization. The skills involved in making and presenting policy, in managing finance and the relationships within government and between governments, are not skills the military or the police are necessarily expected to have, nor necessarily need as core competencies. They play a more helpful role as advisors and technical experts with recent operational experience of military or police realities. Democratic tradition is that civil-military relations precludes the military from advocating or insisting on a course of action or, conversely, so circumscribing the conditions for taking action that the nation and its civilian leaders, shorn of realistic alternatives, are paralyzed.

There are also reasons of principle why a ministry should be a civilian-led organization. It is always undesirable if large and expensive areas of government are solely in the hands of technical specialists with their own loyalties – be they military or police officers. In addition, military and police hierarchies can easily be paralyzed by

factional disputes. Civilians are in principle better able to take a neutral view. But it is not enough just to introduce civilians into the process. Simply being civilians does not give them any special status or skills. Similarly, taking military or police officers out of uniform does not automatically give them civilian policy skills either. There is little alternative but to recruit and train a cadre of career defence and security officials. Often, secondments from other ministries or departments in government are required. Unless carefully controlled, recruitment of civilian staff can also be an opportunity for political parties to move their own people into positions of power, with the attendant risk of corruption and the use of the military or the police for political advantage. This requires the central recruitment, training and promotion of civilian staff in a way which is, as far as possible, insulated from political influence. The best results are probably obtained where civilians and the military or the police work side by side. The priority, however, must be to avoid competing civilian and military or police hierarchies – which are recipes for paralysis – and to organize the work in ways between civilians and the professionals that make the most pragmatic sense.

The Defence Ministry and the Ministry of the Interior need to be structured and staffed to be able to have productive relationships with each other as well as with other ministries, departments and agencies: the foreign, finance, economic and trade ministries, intelligence and security agencies, customs and border guards or protection of critical national infrastructures. Both ministries are part of a wider *security policy community*, and both have the critical role of advising colleagues on what is actually possible, and what options there are for a military or police contribution.

The Defence Sector

Democratic societies are such individualistic and sensitive organisms that all of them choose very different ways of embedding within themselves what is essentially a non-democratic and potentially dangerous institution such as the armed forces. Consequently, nowhere is there a universally applicable model which could be copied or which could easily be tailored to ideally fit a country. However, the defence sector fulfils three basic functions for a government, leading to a clear division of labour. These are command and execution of military operations: the operational function; recruiting, training and administration of personnel as well as operational planning: the function of a National Military Headquarters (NMHQ); and budgeting, financial management of the defence sector and the procurement of weapons and equipment as well as the provision of technical advice to government: the Ministry of Defence (MoD) function. Boundaries between these subjects are not absolute, but their sensible organization, in terms of structure, location and authority, adds a great deal to the effectiveness of the armed forces. There are no hard rules about which functions should be carried out in the MoD and which in the NMHQ. But a list of MoD core functions would normally include: direct support to the Minister; making and implementing strategic policy; providing strategic direction for operations; dealing with parliament, the media and public enquiries; cooperating with other parts of government, foreign governments and international organizations; and managing the budget and programs.

The principles that should guide the organization are: (1) generally, form should follow function – the structures which are put in place should be designed to make the agreed tasks of the armed forces, and their agreed division between elements of those armed forces, easier to carry out. (2) The smaller the armed forces and the more limited their roles, the more compact the organization will be. In a small country, the MoD and the NMHQ may be collocated. However, there are dangers in too close a relationship. The strategic direction of armed forces is a different matter from their operational command and control. There is temptation, when operations are underway, for the political and military leadership to neglect the strategic level and be drawn into the details of current operations, which seldom produces good results and thus should be avoided. (3) The internal organization of the armed forces will vary with the tasks assigned. Independent air forces, in particular, are expensive, and below a certain size hard to justify, unless they carry out tasks such as air defence which could not sensibly be performed by other parts of the defence sector. And (4) the defence industries as such, as well as the strains in the relationship between military and society due to their restructuring, should be dealt with only by the MoD.

The Security Sector

The functions of the security forces consist in protecting the individual and the community at large from any dangers which pose a threat to public security, safety, and order, and in eliminating any disturbance of public security and order wherever the public interest so requires. In particular, the police have to safeguard the constitutional order and to make sure that citizens may exercise their civil rights without any restrictions. In practice, no single model of democratic law enforcement or policing exists. Law enforcement or policing are deeply engrained in the legal, social, political, and cultural traditions of a country, resulting in a wide variety of policing systems and styles.

In a democratic legal system, courts and magistrates or judges must be kept separate from and independent of the police. Prosecutions are normally brought by the staffs of the Public Prosecutor's or Attorney General's Office, which are completely independent of the courts themselves. The individual members of the Public Prosecutor's Office attached to the lower courts report to senior Public Prosecutors, who in turn, and together with the Attorney General at the Supreme or Federal Court, report to the Ministry of Justice. In carrying out their duties, Public Prosecutors are authorized to have direct contact with, and enlist the support of, police authorities or other state or local authorities.

The major role of the police is to discourage and investigate crimes with particular emphasis on crime against persons or property and the maintenance of public order, to apprehend suspected perpetrators, to detain them, and to inform the appropriate authorities. Police are often used as an emergency service and may provide a public safety function at large gatherings, as in emergencies, disasters, and search and rescue situations. To provide a prompt response in emergencies, they often coordinate their operations with fire and emergency medical services. In many countries there is a

common emergency service number that allows the police, firefighters or medical services to be summoned to an emergency.

In order for police officers to do their job well, they are vested by the state with a monopoly in the use of certain powers. These include the powers to arrest, search, seize, and interrogate; and if necessary, to kill. In all democratic nations, the law of criminal procedure has been developed to regulate officers' powers, so that they do not exercise them arbitrarily and ruin the lives of innocent people.

In many countries, police carry firearms in the normal course of their duties. They can also be equipped with non-lethal weapons, particularly for riot control. These include batons, shields, tear gas, pepper spray, Mace, Tasers, rubber bullets, beanbag rifles, and stun guns. The use of firearms or force is typically the last resort only to be engaged when necessary to save human life. Modern police forces make extensive use of radio communications equipment, carried both on the person and in vehicles, to coordinate their work and share information. Vehicle-installed computers have enlarged the ability of police communications, enabling criminal background checks on persons of interest to be completed in matters of seconds, and updating the officer's daily activity log and other required reports on a real-time basis.

In many countries, there are multiple levels of police agencies. There may be several police or law enforcement organizations, each serving different levels of government and enforcing subsets of the applicable law. Most police forces also contain subgroups whose job it is to investigate particular types of crime. In most Western police forces, perhaps the most significant division is between 'uniformed' police and detectives. Uniformed police are involved in overt policing operations, traffic control and more active crime response and prevention. Detectives, by contrast, wear business or other civilian attire when their job is to more passively investigate crimes, usually on a longer-term basis. In some cases, police are assigned to work 'undercover', when they do not identify themselves as police, sometimes for long periods, to investigate crimes, particularly organized crime, unsolvable by other means. This type of policing shares much with intelligence or espionage.

Specialized groups exist within the branches either for dealing with particular types of crime – traffic policing, murder, or fraud – or because of particular specialized skills they have, such as diving, operating helicopters, explosive or bomb disposal, drug enforcement squads, etc. Larger jurisdictions also retain specially-trained quasi-military squads with small arms for the purpose of dealing with particularly violent situations. These are sometimes called SWAT (Special Weapons and Tactics) teams.

The criminal investigation service is responsible for obtaining information, investigating crimes, shadowing suspects, and tracing wanted persons. It operates central specialists units investigating general crime, drug-related crime, organized crime, immigration crime and human trafficking, as well as units dealing with fugitive apprehension, surveillance operations, pornography, and forensic science. Normally, only specialized groups of the criminal investigation service conduct special investigation activities like telephone tracing and tapping; bugging of public or other premises and homes; electronic surveillance; pseudo-buying; controlled delivery; infiltration; and witness protection. The units of the national criminal investigation

service often have full authority over subordinate services in criminal investigation matters.

Police services are notoriously closed institutions, reluctant to open themselves to outside scrutiny. Consequently, it is imperative to establish an accountability system. Police accountability refers to how law enforcement agencies exercise their policing powers and fulfill their obligations to provide a fair, equitable, and rights-respecting *public service*. Police accountability encompasses much more than just issues of alleged police malfeasance and misconduct. It pertains to all aspects of police performance, from policies to operations, from strategies to tactics. As effective policing requires a police-community partnership, police accountability needs to measure, evaluate, and regulate the quality of that relationship.

In democracies, it is widely accepted that a sound accountability system must integrate multiple and overlapping *internal* and *external* mechanisms of control and oversight. In the *security sector*, all well-functioning accountability systems are grounded, first and foremost, on internal police mechanisms, processes, and procedures. Secondly, they are based upon the public availability of pertinent police information. Internal mechanisms cover the broad spectrum of disciplinary procedures, administrative rules and regulations, and inspector general and other control functions. Depending upon the context, external accountability may include the following elements: organs or agencies that receive and investigate citizen complaints; commissions that review police complaint investigations; boards that hear appeals of complaint investigations and their disposition; and councils that audit and monitor complaint procedures, police policies, and performance.

External accountability refers to the role of the executive, legislative, and judicial branches of government. Control of the police is exercised by the *executive* at the central ministerial, the regional and, in some countries, at the local level of government. The executive level determines budgetary allocation, issues general guidelines and priorities for policing, and issues regulations for police action. The *legislative* level exercises control of the police by scrutinizing legislation in committees; passing laws regulating police and police powers; approving budgetary allocations; establishing parliamentary ombudsmen, and commissions to investigate complaints by the public. The *judicial* level monitors the police and prosecutes them through civil and criminal proceedings when necessary. Moreover, external civilian oversight over police is necessary to enable victims of alleged abuses to have these allegations investigated by an independent body. The allegations could be made to an independent 'complaints committee' or police ombudsman. It is important that independent outsiders investigate the complaint, not only members of the police services.[18] Ombudsmen, grassroots initiatives from civil society, community consultation groups, and responsible media can all play a role in external oversight. Democratic oversight of police may be exercised in informal bottom-up mechanisms from the grassroots levels of local communities. These civil society organizations can help to ensure that police forces enjoy public confidence.

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[18]   Hazenburg, Anita, "Target Areas of Police Reform", in Kadar, Andras (ed.), *Police in Transition*, Budapest: Central European University Press, 2001, pp. 177-186.

The challenges in building police forces are four: training and equipping individual officers and the forces, which is a time-consuming and always expensive process; establishing accountable and rights-respecting institutions; establishing adequate managerial structures and systems; and ensuring that the police forces operate as part of a wider fabric of self-enforcing rule of law.

The fundament on which police organizations should be build is the conviction that the police can contribute to democratic political development most directly by acting in accord with the following four rule sets:[19] police must give top operational priority to *servicing the needs* of individual citizens and private groups;[20] police must be *accountable* to the law rather than to government; police must *protect human rights*, especially those that are required for the sort of unfettered political activity that is the hallmark of democracy;[21] and police should be *transparent* in their activities.

The principles that should guide the organization of the police are: (1) have a mission statement that clearly sets out the priorities and role for the police services and which needs to be matched to extant capabilities and finances. (2) No policing system can be understood apart from the social and political system in which it works. Thus, any police reform will falter and wither without concomitant introduction and refurbishment of other institutions whose work impacts on the police such as the criminal justice system and penal system. (3) The objective of police accountability is to enhance and, thereafter, maintain police effectiveness and to establish a system that ensures continuous transformation and professionalization. (4) Improvement of the management of policing – skills and systems, human resources management, budgeting, planning, information, communication management, etc. – will have significant positive effects on strengthening accountability. (5) Since police accountability rests upon the measurement of police performance, it is imperative to define what types of police performance statistics – quantitative and qualitative – are to be measured and how these measurements will be updated and modified over time. Concurrently, decisions must be taken on who and how those measurements are collected, analyzed, and which ones are made publicly available. (6) As police

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[19] Bayley, David H., *Democratizing the Police Abroad: What to Do and How to Do It,* Washington: US Department of Justice, Office of Justice Programs, National Institute of Justice, NCJ 188742, June 2001, pp. 13-15.

[20] Police are the most public manifestation of government authority. When they use that authority primarily to serve the interests of government, they belie the democratic promise of government for the people. The most dramatic contribution police can make to democracy is to become responsive to the needs of individual citizens. This is what the various emergency telephone systems have achieved in developed democracies. Most of the work done by the police in developed democracies is instigated by individual members of the public rather than by orders issued by government. A police force whose primary business is serving the disaggregate public supports democracy in two ways. First, it becomes accountable to the most diverse set of interests possible. And second, it enhances the legitimacy of government by demonstrating daily and practically that the authority of the state will be used in the interest of the people.

[21] These activities are freedom of speech, association, and movement; freedom from arbitrary arrest, detention, and exile; and impartiality in the administration of law.

accountability is information driven, access to policing information must be secured, optimally by enshrining public access in legislation, and the subordinate directives and regulations specified. (7) Given the interlocking nature of police accountability – internal and external – planning is crucial to assess the capabilities of the various institutions involved, to strengthen those capabilities, and to determine the proportions of resources dedicated to accountability activities within these institutions.

Since the success of police accountability lies initially with the police themselves, the heart of an accountability system is the establishment of a fair and equitable internal affairs regime within the police, based upon a publicly acknowledged *code of conduct*.[22] Among the other issues that need to be addressed are: how allegations of malfeasance are lodged against police personnel; the anonymity of those lodging the allegations; who is allowed to lodge allegations; the process of subsequent investigation; due process safeguards for those against whom allegations have been lodged; and how and who determines and judges the veracity of the allegations. Another important component in internal affairs regimes is the method by which internal affairs departments are staffed and investigators recruited and selected.

Within the police services, there exist many possibilities for ancillary initiatives that can support the operations of a police accountability system, among which are: rigorous training and enforcement of a 'use of force' and a 'use of firearms' regime by police personnel; continuous refinement and improvement of personnel performance and evaluation systems within the police; and the strengthening of police promotion processes and procedures.

In a democracy, policing must be based on public consent, trust, and cooperation, if it is to be effective. That means that the community acknowledges the policing task to be legitimate and confers the authority of the police to carry out that task. Public consent depends on the accountability of police in providing the community with the policing services it needs. While the military is primarily held accountable to the political branch of government, both constables and soldiers are accountable to their respective chain of command. Police are, moreover, accountable to the rule of law and the judiciary branch of government. In addition, police agencies are held accountable to local police boards and external review boards, such as special investigations units, which review all cases where individuals have been injured.

The Division of Labour in the Defence and Security Sphere in a State

Barely 15 years ago, *defence* and *security* were synonymous terms in the sense of *national security*. Primarily, investments in defence provided security. Today, defence is only one element of security, and an increasingly smaller one at that. The main security concerns are issues such as regional conflicts; terrorist threats; ethnic and religious tensions; open and insecure borders; illegal migration; and organized crime –

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[22] The most relevant international agreements and code of conducts are: (1) Council of Europe, *European Code of Police Ethics*; (2) *UN Code of Conduct for Law Enforcement Officials*; (3) *UN Civilian Police Principles and Guidelines*; and (4) *OSCE Code of Conduct on Politico-Military Aspects of Security.*

which is blurring the lines between government, business, and crime. And more challenges are likely to arise which are yet unforeseen. These call not for a traditional military response but are rather the preserve of the Ministry of the Interior, hence issues calling for police, security and paramilitary forces. Yet, the national *security insurance agencies* remain the armed forces, which, however, in most cases are still organized for the last world war. All too often, they lack solid capacities to perform new tasks like power projection, intervention, peace-keeping, humanitarian and stabilization operations, militarized policing, and so forth. Such forces run counter to the clear trend and fact that the policing and military worlds are converging. Over the last decade, there has been a refocusing of defence policy and the role of the armed forces toward *security*. This implies a new concept of the role of the *defence sector* above and beyond the traditional roles in time of war, centering on tasks that are more security-oriented in nature.

Meeting the new security requirements demands fundamental reform of national structures, patterns of investment, systems of government, and also civil-military relations. The functions which these institutions now face have changed over the last decade but their structures have yet to evolve to keep pace.

Today, the bodies and forces responsible for defence and security have an ever wider variety of roles and tasks. At the domestic level, it is their job to preserve law and order, protect the security of the state, persons and property, safeguard democratic institutions and procedures, and ensure the peaceful coexistence of different sections of the community. At the international level, where there is an ever growing demand for cooperation, these bodies and forces must be comprehensively coordinated through bilateral or multilateral framework agreements as they may be involved in concerted action or joint/combined operations under collective defence arrangements or also in international peacekeeping and stabilization missions intended to prevent or settle conflicts, or assist with post-conflict reconstruction.

Ever more of today's security threats, such as international organized crime, international terrorism, and arms proliferation, affect both internal and external security and therefore require more cooperative and much better synchronized responses by the bodies and forces of the defence and security sector, preferably also coordinated at a multilateral or international level. Each of these new tasks must be reflected in the assignments and duties of the various components of a country's defence and security sector.

The Government Level

The new threats require foremost the building of a robust crisis management capability. Prerequisite for success in crisis management is that all aspects of a crisis – diplomatic, political, military, humanitarian, economic, and social – are addressed simultaneously in a coordinated fashion, and followed up by integrated planning of actions. The new threats also require more investments in the ministry of interior, police, intelligence and security agencies, customs, border management and coast guard forces, protection of critical national infrastructure, etc. As security is no longer just a military concern, it is no longer just the preserve of the Ministry of Defence and the Ministry of Foreign

Affairs, which have to date been the main ministries involved in security cooperation. And since it is no longer possible to draw a clear distinction between external and internal security, today's security requires more cooperation and comprehensive coordination of the *'external'* ministries and their agencies with those of the *'interior'* ministries: justice; environment; health; transport; communications; finance; economics, and so on, with their agencies – policing forces; security and intelligence services; critical national infrastructure protection; disaster relief; immigration, etc.

Tackling non-military threats to security requires robust strategies. These can only be developed if key people from different organizations of government, law enforcement, intelligence and security agencies, academia and research institutes come together to develop a comprehensive approach to these problems – which today constitute the most immediate and fastest-growing threats to safety and survival of democratic societies.

The Armed Forces

It is by now obvious where the development of armed forces will have to go: manpower will give way to firepower; quantity and mass will give way to quality of personnel and training, precision of weapons and equipment, and better force protection. There will be a premium on force projection as well as on reach, range, and speed of action, of deployment, engagement, and sustainability. Of predominant importance will be the modernization of the information, intelligence and decision-making process, which confers the capability to act preemptively since the new security environment will require more preemptive and offensive actions.

At the same time, the new threats entail more military support to civilian authorities and the police to cope with serious situations such as terrorist attacks, organized crime, drug-trafficking, and illicit smuggling. Over and above military interventions to bring about, restore or maintain peace, the defence sector is today called upon to carry out a greater number of security related roles. Occasionally, this can be direct action by the armed forces such as the protection of state institutions and the critical national infrastructures, reconnaissance, surveillance, patrols, reinforcement of the border management services, or aid and humanitarian action. Or it can involve the use of defence capabilities such as intelligence, air and ground transport, communications, and all sorts of military equipment.

Thus, the essence of the problem with today's European armed forces is that they are confronted with a revolutionary change in requirements, resulting in two contradictory *ends* in the strategic frame of the classic interaction between *ends*, *ways* and *means*: *defence* and *security* – and as such a problem of the division of labour. Because war does not seem to be imminent for at least a decade, the dominant trend is to rationalize this problem by addressing both these *ends* in sequence: by putting *defence* on the backburner in order to concentrate now on meeting the needs of *security*. However, there are dangers in reorganizing the *means* to meet these *ends* without addressing the *ways*. In theory, the *way* defence is dealt with has not changed. States still think of defence as requiring mass armies. It is true that, as weapons have become more capable, the density of forces needed in open battle is diminishing. But it

is equally true that in the future, we will witness increasing dislocation of the new threats and combat into urban and built-up areas, requiring a much higher density of forces. And it is even truer for peacekeeping operations and 'out-of-area' intervention. For such operations, land forces need to have at least three times the manpower of the actual battalions making up the force structure deployed to sustain the operations, and to generate sufficient periodic replacements of the forces engaged.[23] In practice, however, and often because of diminishing finances and defence budgets, states continue with the down-sizing of their armed forces. Hence, it is no longer clear what the *way* should be for either *defence* or *security*. The only thing that is clear is that the existing *means* are far from being optimized either for *defence* or for *security*. The most critical problem therefore is to find new *ways* to satisfy both *ends* of *defence* and *security* with the *means* affordable – solving the challenges of the dual-role of the military through greater participation of the security sector and more precisely defined fields of division of labour.

Clear, however, is that new military organizations and structures are required: smaller in number and size, but more capable. Tomorrow's armed forces will have to have a much broader range of competence. As armed forces need to become more flexible, versatile, and capable of being deployed and sustained abroad, their cost will increase, and the size of force that can be afforded will drop. For smaller countries this means that they will no longer be able to field balanced national armed forces capable of conducting all the functions needed in combined-arms operations. This will require a more developed *multinational division of labour*, more *role-sharing*, and more *specialization*.

Hence, ever more countries will have to cooperate in collective security agreements because ever fewer states will be able to meet all the security requirements alone. This makes *interoperability* of the armed forces with foreign forces imperative – with an alliance like NATO at the highest political-military levels of decision-making, as well as at the operational and tactical levels, including English language capability. Moreover, within the last few years, there has been a growing tendency towards *military and industrial integration* and *multinational military coalition* structures. The whole aim of NATO, and increasingly also of the EU, for example, is to avoid 'nationalized' defence and security policy in order to deepen integration. This, because integration and enlargement have the potential to increase enormously NATO's impact on the new security environment. By bringing in applicants as they are ready, and by encouraging other countries through the *Partnership-for-Peace Program* and other mechanisms to bring their defence sector to a higher degree of competence and interoperability with NATO, the alliance is making a huge contribution to dealing with new threats to security.

But how should applicant members address the issue of joining an alliance which is in the process of rapid evolution? They will have to demonstrate a minimum level of administrative and governmental competence, and be able to ensure *interoperability in the political, economic, security and military spheres*. Applicants

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[23]   Deployable forces required for maintaining the rotation needed in long-term, high-intensity operations: $1/3$ on deployment; $1/3$ on training; $1/3$ resting and refurbishing.

will need to show that they share common values and can muster political will to preserve these. Only then will they be able to work together as equals, worthy of mutual respect, the strong helping the weaker to become stronger, and no one state giving orders to others. A good start would be to readdress the fundamentals of alliance membership in the perspective of new security threats. To become a welcome member of an alliance, be that NATO or the EU in the Common Foreign and Security Policy frame, a country should be able to provide an *essential minimum of self-protection*, and be *capable of receiving help* from, and of *providing help* to, other allies.

Self-protection no longer means simply self-defence. Some nations still face a potential external military threat that will necessitate keeping traditional armed forces in place while, for others, classic defence will no longer be required. For some members, the terrorist threat may be very high while for others it may be low. Thus, in a modern alliance, there will be significant differences in how members prioritize threats and allocate resources to dealing with them. Likewise, the kind of help nations are likely to need from allies will also differ considerably. It is probable that it will no longer just be traditional military help – the security sector may now have to be prepared to help. In providing help to others there may be limited options, but much variation within them. Military options will require forces capable of projection and engagement. But armed forces will also have to be capable of being deployed in domestic situations in support of the security sector. Sharing the burden not only of cost but also of risk and of casualties will remain an important factor in deciding how allies will need to contribute. But help will not only be military.

Another important question facing NATO and EU members and applicants alike is how to adapt not only the national organizations to meet these new challenges, but how to adapt NATO and the EU so that they remain capable of dealing with the new security threats. Internal mechanisms for *collaboration* and *coordination* will need to be adapted or created to cope with the different security requirements of members. These are also needed to provide a framework within which members can develop *specialized military capabilities* to contribute to a common effort, and to ensure cooperation with the security sector. Hence, enlargement will also force the alliance to carry out reforms to streamline procedures which are long overdue and necessary in order for NATO to remain efficient.

Police

In a state, *regular police* are responsible for providing law and order, public safety, and fighting crime.[24] Increasingly, they also have to deal with the problems associated with illegal trafficking of drugs, arms and persons, smuggling, and illegal migration. The

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[24] The police are primarily responsible for: (1) identification of criminal offenders and criminal activity and, when appropriate, apprehension of offenders and participating in subsequent court proceedings; (2) reducing the opportunities for committing crimes through preventive measures; (3) creating and maintaining a feeling of security in the community; (4) promoting and protecting the laws of the state; and (5) providing other services on an emergency basis.

nature of the work, and their powers to arrest, search, seize and interrogate means that they have substantial scope to limit people's rights and freedoms. Today, the common view among experts is that the fundamental purpose of the *regular police* is to protect human rights and uphold the law, both by preventing the infringement of people's human rights by others, and by respecting human rights in the exercise of that duty. Respect for human rights is thus essential for good and effective regular policing. Since the credibility of the police will ever more depend on its professionalism, more training is needed for police officers, covering humanitarian principles, constitutional safeguards, standards deriving from existing codes of ethics, and operating in accordance with democratic rules.

Though the situation may vary by country, *national security* is no longer the main purpose of *regular policing*, but becoming more relevant for *special police* units, which are needed to deal with transnational terrorism and international organized crime in a centralized fashion *at the national level*. Two of the main problems in the post-9/11 environment are that the emphasis in policing in most states has shifted to counterterrorist and counter organized crime policing, which tends to be covert and involves increased interaction with security services and intelligence agencies. This is resulting in the blurring of the lines between police and security or intelligence services, and has the potential to degrade transparency and accountability. Moreover, the key concern in counterterrorist policing is maximizing efficiency, which may come at the expense of legal and procedural safeguards. Thus, it is important that legislation is reviewed, distinguishing more clearly between security and intelligence on the one hand and specialized law enforcement agencies on the other. At the same time, legislation must take better account of developments in communications, modern technologies, and cyber crime, and must be more regularly up-dated.

Most countries are members of the International Criminal Police Organization – Interpol, established to detect and fight transnational crime and provide international cooperation and coordination of other police activities. Interpol does not conduct enquiries or arrests by itself, but serves as a central point for information on crime, suspects and criminals. Political crimes are excluded from its competencies.

Countries normally maintain a 'Single-Point-of-Contact' office mostly in the headquarters of the national criminal investigation service, available 24 hours a day and providing the gateway for international law enforcement enquiries and cooperation, and the exchange of intelligence and information. It also serves as the point of contact for foreign liaison officers posted in the country, and it sends its own liaison officers abroad – to Interpol, Europol, and other international or regional organizations, as well as to different countries. Access to files is normally granted for enquiries about the following: wanted or missing persons; stolen vehicles or stolen property; criminal records; fingerprints; photographs of criminals; serving prisoners; listed or unlisted telephone subscribers; vehicle owners and registrations; driving licenses; passports; company registers; national register; electoral roll; bank accounts; and tax information.

In Europe, the EU has undertaken efforts to develop a stronger institutional approach to internal security matters by formulating a Common Action Plan; enacting measures to enhance *cross-border police and judicial cooperation*; harmonizing policies for defining, responding to and sentencing terrorists; and enhancing police-

intelligence cooperation, including joint investigative teams of police and magistrates. The EU established *Eurojust*; improved border control as well as the asylum and immigration systems; introduced wide application of the *European arrest warrant*; improved *air transport security* throughout Europe as well as *emergency preparedness*; and has taken steps in *economic and financial policy* to eliminate sources of terrorist financing and to fight money-laundering more effectively. These efforts must not only be reinforced in individual states, but more comprehensively coordinated and synchronized at the multilateral level. Nearly all agencies participating in collaborative regional processes and information exchange recognize that coordination problems exist, and many have first hand experience in the difficulties that arise when these problems are not addressed. Many have also learned important lessons over the past several years and have developed innovative techniques to improve interagency coordination and accountability. States have thus to focus on implementing these lessons learned and making more integrated planning a formal part of the interagency process.

The democratic police ideal[25] can be supported by organizational means such as: a clearer division of labour between those who investigate, arrest, try, and punish; a military-like bureaucratic structure which limits discretion and tries to create audit trails; the creation of competing police agencies rather than a single monolith; external agencies that monitor police behavior and that must give permission for certain highly intrusive actions; regular police who can be readily identified as such, in uniforms with names or identification numbers and clearly marked cars on the one hand, and, on the other, specialized undercover police whose identity is hidden and well protected; more rotation in assignments; adequate compensation and working conditions at least at the average level of the society, and living in the community they serve, not in barracks. These efforts involve the belief that liberty is more likely to be protected if power is diffused; if competing agencies watch each other; if identities and actions of the regular police are visible, while actions of the specialized police are accountable to parliament, and the identities of those taking part in covert police operations are well protected.

Intelligence and Security Agencies

Having become the key elements of the new *security community*, intelligence, counterintelligence, and specialized security or law enforcement services face particular challenges. None of the new transnational threats are stagnant. Particularly international terrorist and crime organizations learn and adapt more quickly than states do. Thus, for intelligence and security agencies, it is no longer enough to keep up with them: they must anticipate and keep ahead. Speed and agility are the keys to the war on terrorism, and profoundly important to a nation's other intelligence challenges. But no matter how successfully intelligence anticipates future challenges, it will not foresee them all. So, intelligence and security agencies will need the ability to adapt their organizations to change more easily and quickly, and hence to permanent

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[25] Marx, Gary T., *Police and Democracy*, in Amir, M. & Einstein, S. (eds.), *Policing, Security and Democracy: Theory and Practice*, at: http://www.mit.edu/gtmarx/www/dempol.html

transformation. For this, they will need more flexibility in shifting resources, people, and money to respond to changing priorities. Not only do they have to recruit and develop specialists with new areas of expertise and new backgrounds, both to study and work in foreign countries and new environments from where intelligence is now needed. They also have to adapt to cope with domestic issues which, while longstanding, have now taken on new significance: immigration; ethnic minorities; extremism; allegedly disputed national loyalties; xenophobia and social cohesion – thus problems which are likely to affect all democracies to an ever greater degree.

The change in the nature of the threat today requires much closer cooperation between intelligence services and their counterparts in security services and policing organizations. Over the years, and for good reasons of separation of power and internal/external division of labour, there has developed a very different attitude to intelligence handling between these organs. This makes it difficult for them to work together with the degree of interaction now needed. It is less an issue of trust or 'turf battles' between rivals seeking to protect their little 'empires' than a deep philosophical and cultural difference that is not easy to overcome. The issue not only affects national agencies or bilateral collaboration, it affects multilateral cooperation and international organizations to an even greater degree.

The immense importance of improving the exchange of information and intelligence cannot be overemphasized. Without the urgently required improvement, national governments as well as international organizations will simply not be able to tackle the new threats to security. Improvements are needed between national agencies and institutions and also between countries. To that end, networks of trust between individuals from different countries and different agencies have to be developed, since it is precisely on the basis of trust that information and intelligence is most readily shared. It is pointless for governments to legislate for information exchange if the basis of mutual trust is lacking. Rather governments should think of how to make best use of models of informal trust-generating mechanisms as developed and working in NATO to improve their capability for intelligence exchange.

The Division of Labour in the Defence and Security Sphere in Changing Situations

Governments come to power with policies to implement, and electorates expect governments to prepare for and manage events. Some of these policies will involve the use of defence and security assets, and it is necessary to consider their use when unexpected contingencies arise. Such contingencies can emerge in many forms: natural or man-made disasters; civil disobedience and civil disorder; hazards of terrorism; insurgency and war. Most of these events have in common a change of the situation that may necessitate the deployment and engagement of defence and security forces. As examples of the division of labour in the defence and security sphere in changing situations we will look at three cases: (1) *natural disasters;* (2) *civil disorder;* and (3) the *'state of emergency'*.

Natural Disaster

A *natural disaster*[26] is the consequence or effect of a hazardous event, occurring when human activities and natural phenomenon – a physical event, such as a volcanic eruption, earthquake, landslide etc. that does not affect human beings – become enmeshed. The resulting fatalities, or property damages, depend on the capacity of the population to support or resist the disaster. A disaster is a social disruption that can occur at any level of the individual, the community or the state. In areas where there are no human interests, natural phenomena do not constitute hazards, nor do they result in natural disasters. This understanding is crystallized in the formulation: 'disasters occur when hazards meet vulnerability'.

Coping with disaster comprises four activities: mitigation, preparation, response, and recovery.

Mitigation attempts to prevent the disaster from ever occurring, or to reduce the effects of the disaster. It is the preferred method, when it can be achieved at acceptable costs. Mitigation is often practical for avalanche, flood and famine prevention, public health measures, and outages of power, water and sewer.

Preparation consists of establishing national and regional emergency operations centers – which, in some cases, may also perform civil defence coordination – and nation-wide practiced doctrines for the management of emergencies. Other measures include continuous government inventories of national medical stockpiles, strategic petroleum reserves, grain silos and other basic food stuff. Further preparations preposition training, supplies and equipment for use in the response and recovery stages.

Response mobilizes emergency services. In general, an emergency is first reported to a dispatcher for fire or police services. They should have predefined criterions to contact the emergency services coordinator who then decides whether to activate the emergency operations center and to dispatch crews to gather information to prioritize the needs. Most efficient at saving lives and property are centrally-directed services such as firemen, police, community emergency response teams, and sheltering groups such as the Red Cross.

Recovery consists of rebuilding damaged infrastructure, all kinds of communications, buildings, and production, and restores people to normal work. It is the longest and ultimately the most expensive phase. If mitigating resources and items for recovery are dispersed before the event of the disaster, cascades of social failures can be prevented. Often, recovery can be greatly aided by small amounts of prepositioned infrastructure.

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[26] Such as avalanches, blizzards and snowstorms, drought, earthquake, epidemic, famine, flood, forest fire, hailstorm, heat wave, hurricanes, ice storm, lahar, landslides and mudslides, sinkholes, tornado, tsunami, volcanic eruption, etc.

Roles and Participation of the Security and the Defence Sector

Mitigation is normally the business of national, regional, and local authorities, their units of 'first responders', rescuers, and units responsible for the protection of the critical national infrastructure. The *security sector* should be informed about the measures planned or taken. The *defence sector* will only be informed and up-dated if there is a need to know about the measures planned or realized.

     Preparations are made by national, regional, and local government. The *security sector* is fully integrated and must: plan and organize all measures and security means required for all relevant contingencies; develop doctrines for ensuring the security of the population affected by the disaster and the management of eventual evacuation; be fully knowledgeable of all plans and preparations for alert, mobilization, and contingency emergency engagements; have sufficient specialized staff assigned to the *emergency operation centers* that will manage disaster relief operations under guidance of the designated national or regional emergency coordinator; plan, execute, and participate in exercises and training sessions of the security means to be engaged and deployed; establish the 'lessons learned' in such exercises, and up-date contingency plans.

     The *defence sector* will only be engaged in planning and preparation of particular civil defence measures, or if there are further needs for cases in which full-time emergency services and mobilized emergency reserves are expected to quickly be dramatically overloaded. Only in such extreme cases will defence resources participate in preparations and planning, and then strictly in a *subsidiary role*: under the civilian government's lead for the civilian authorities they have to assist.

     Response is directed and coordinated by the emergency coordinator and staff of the *emergency operation center* and executed with disaster relief operations. The *security sector* will participate in staff work, and will lead and conduct security operations. Contributions of the security sector to the response normally are: reconnaissance, collection of information, analysis, and damage or threat assessments; the mobilization, deployment and engagement, according to the priorities set, of its resources with which to ensure the security and safety of the population directly or indirectly affected by the disaster; the management of safe evacuations; barring unauthorized access to the disaster scene and the places evacuated; the surveillance and guarding of private property in the zones evacuated; and law enforcement measures where additionally needed.

     Only if the civilian resources engaged in the disaster relief operations are inadequate as regards personnel, materiel, or time is the *defence sector* called up for assistance to the civilian authorities under civilian leadership. Assistance will be rendered in the form of subsidiary operations: operational responsibility will lie with the civilian authorities. Normally, the armed forces will decide the make-up of the forces to be deployed and will bear the command responsibility for the units and their engagement. The armed forces can provide support simultaneously to several emergency response operations involving high levels of destruction, rescuing, evacuating, and protecting people and property in the devastated areas. Depending on the type, characteristics and scale of the disaster, and the urgency of the required

response, the main contributions of the armed forces can be: providing air and ground transport for large-scale evacuations, the deployment of rescue, medical and first-aid teams, and the distribution of food rations, medicine, and fuel; deploying and engaging military bridging and river-crossing means; engaging pioneer and combat engineer units to open roads for evacuation, logistic supplies, to contain further spread of the disaster, and for basic infrastructure reconstruction; providing mobile communication means and nets for areas that suffered a breakdown in communications; providing emergency rescue and specialized military units such as civil affairs personnel, psychologists and psychiatrists, medical specialists for disease control, containment and decontamination; reinforcing the civilian police with military police and judge advocates; providing water purification equipment and specialists, mobile power generators, mobile kitchens, bakeries and butcheries, and mobile general and special purpose mortuary facilities. However, the military's involvement should cease in instances of resettling internally displaced or evacuated populations and general reconstruction efforts, both of which must be done by civilian government agencies.

Recovery is directed and handled by civilian government agencies, contractors, and private enterprise. There may be need for the engagement of the *security sector* normally only as far as the conduct of special law enforcement operations and the prevention of looting of private property in the areas of recovery are concerned. The engagement of the *defence sector* is generally limited to reconstruction of damaged defence facilities and infrastructures of the armed forces. And even in this, they do not compete with civilian enterprises.

Civil Disorder

Civil disorder is a broad term used by law enforcement to describe one or more forms of disturbance caused by a group of people. Civil disturbance is a symptom of, and a form of protest against, major socio-political or economic problems. Typically, the severity of the action coincides with public outrage. Examples of civil disorder include, but are not necessarily limited to: illegal parades; sit-ins and other forms of obstructions; riots; sabotage; and other forms of crime. Disorder is intended to be a demonstration to the public and the government, but can escalate into general chaos.

Any *civil disorder* is a delicate balance of power. A political power struggle of some sort is typically the root cause of any such conflict. Often, public demonstrations are viewed as the last resort of political organizations. If the power equation in a civil disorder becomes unbalanced, the result is either oppression or riot. Police brutality is a frequent result of civil disorder.

Citizens not directly involved in civil disorder may have their lives significantly disrupted. Their ability to work, enjoy recreation and, in some cases, obtain necessities may be jeopardized. Disruption of infrastructure may occur during severe events. Public utilities such as water, fuel and electricity may be temporarily unavailable, as well as public infrastructure for communication.

Both the *defence* and the *security sector* have to protect the laws and citizens of the state, although police have a more active responsibility of doing so. But it is clearly primarily the task of civilian law enforcement agencies at the state and local

levels to prevent and contain civil disorder, and to restore order. Only under exceptional circumstances, where police agencies are no longer able to maintain control of the situation, is the military viewed as the last option available to the state – the nation-state's force of last resort.

The Western and particularly the American tradition generally exclude military involvement in domestic affairs. Even the US National Guard is used only as support or backup force in the domestic arena. But, as always, there are some exceptions. There are some countries that maintain national military police forces. France has the *Gendarmerie Nationale*[27] which polices the countryside areas and small towns outside of the jurisdiction of the French National Police. Other missions include criminal investigations, crowd control, and securing airports and military installations. While administratively part of the armed forces, thus under the aegis of the Ministry of Defence, it is operationally attached to the Ministry of Interior for its missions within France. Italy has the *Carabinieri,*[28] a military corps of the gendarmerie type with police functions, organized on a territorial basis, and also serving as the Italian military police. Even the EU has recently created a *European Gendarmerie Force*[29] for crisis management operations, involving the five member states that have military police forces: France, Italy, the Netherlands, Portugal, and Spain. These forces are especially trained to prevent or control civil disorder, and are all experienced in riot-control and restoring public order, thus can readily be effectively engaged in law enforcement operations to re-establish security and the rule of law.

The armed forces of other countries normally are deployed *on public order service* only when the resources available to the civil authorities to counter serious internal security threats are no longer adequate, and then in *subsidiary* engagement. The principles and priorities of their engagement in situations of civil disorder are the following: (1) the armed forces will relieve the police for as long as possible on ancillary tasks, such as traffic control, guarding and patrolling sensitive sites like national institutions, government buildings, railway and subway stations, or barring roads and establishing checkpoints – all outside the main centers of demonstrations or riots. (2) Only when no more police resources are available will the armed forces directly assume the protection of public security, and this, in priority, only with professional military police or security formations. (3) Exclusively with a view to a specific, serious emergency situation, should additional units be directly engaged in *public order service*. For this they have to be thoroughly trained and physically and psychologically prepared. In such a case, employment and engagement of recruit formations or conscripts should be avoided. But it may well be that some special units of the armed forces equipped with non-lethal weapons, water canons, anti-riot, roadblock and other engineer material can surgically assist the police – under police guidance – at focal points of riots or violent demonstrations. Moreover, if grave acts of sabotage are spreading, the armed forces may also engage their special forces to deter

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[27] http://www.defense.gouv.fr/sites/gendarmerie/decouverte/organisation/
[28] http://www.carabinieri.it/Multilingua/ENG_p15-17_International_Police_Cooperation.htm
[29] http://www.assembly-weu.org/en/documents/sessions_ordinaires/rpt/2004/1882.html

or to interdict sabotage. However, such engagements, like all other government measures, must be both lawful and legitimate.

Generally, traditional armed forces can more easily be engaged in situations of civil disorder in fields *other than public order service*: to restore basic functions of government, the administration, and critical infrastructure; to reinforce the border management services; to provide help and assistance in subsidiary engagements with military equipment when infrastructure, public transport, communications, or traffic is disrupted; to help communities and citizens not directly involved in civil disorder, but cut off and deprived of necessities, with what is urgently needed in first aid, health care, food and water supply; or to help clear damage resulting from riots or sabotage, and to guard damaged government, public and private property in order to prevent looting.

State of Emergency

A *state of emergency* is a governmental declaration that may suspend certain normal functions of government, may work to alert citizens to alter their normal behaviors, or may order government agencies to implement emergency preparedness plans. It can also be used as a rationale for suspending civil liberties. Such declarations usually come during a time of natural disaster of large proportions, a massive outbreak and spread of an infectious disease, terrorist attacks, financial and economic crises, during periods of large scale civil unrest, or following an insurgency or declaration of war – that is: in an extraordinary situation that threatens the existence of the nation and the life of its inhabitants.

The power to declare a state of emergency is the most fundamental power of government, and knowing who decides on declaring a state of emergency in a given country or territory is telling a lot about where the real power in that country is located. Though fairly uncommon in democracies, dictatorial regimes often declare a state of emergency that is prolonged indefinitely as long as the regime lasts. Other terms used referring to such situations are a *state of exception* or *state of siege*. In some situations, *martial law* is also declared, allowing the military greater authority to act.

What is under attack today is ever less the territory of the state but more its fabric, the nature of its society, the functioning of its institutions, and the well-being of its citizens. These threats are more difficult to define than purely military ones, and therefore more difficult to counter. Moreover, in some instances, the cure for such threats can be worse than the disease. The danger is that state action to combat a threat leading to an emergency risks bringing in authoritarian processes that restrict personal liberties more than the threats it was designed to prevent.

In a democracy, special emergency powers are granted to government by constitution or statutory law. Executive decrees or government policies and plans cannot create additional powers which go beyond the law. The constitution or law determines the effects of the state of emergency on civil liberties, and limits on the emergency powers that may be invoked or rights suspended. Emergency measures can only be invoked in so far as normal measures would no longer suffice to deal with the event. All measures taken must be temporary in nature, and tailored to the exigencies

of the situation in terms of territorial application, material content, and duration. Government, checked by parliament, must provide a well-considered justification for both the decision to declare a state of emergency and the specific measures based on such a proclamation. Notification of the measures taken must be made to other states and relevant treaty-monitoring bodies. Any derogation from human rights obligations must remain strictly within the limits provided for by international law.[30] If a state is to derogate from its obligation under the International Covenant on Civil and Political Rights, then it must inform the Secretary General of the UN of its derogation and the termination of the derogation.[31] Under all circumstances, the responsibility for government remains with civilian authorities on the national and local level. Except in conflict or war the *defence sector* plays a subsidiary role in order to help the civilian authorities. Neither the defence nor the security sector takes over civilian authority; instead, both assist civilian authorities. Moreover, they remain subject to international principles and guarantees.

The Emergency Response Measures

There is no model of emergency response measures as it depends on the nature, seriousness, and scope of the emergency. What a government is actually allowed to undertake varies from country to country, depending on its history, culture and specific political and legal system. A state emergency does not imply a temporary suspension of the rule of law, nor does it authorize those in power to act in disregard of the principle of legality by which they are bound at all times. Most governments develop and maintain contingency emergency plans, which they regularly test and train. The aim of these plans is to prevent emergencies or to stop, control, or to mitigate its effects. Risk assessments and training of the defence and security forces as well as making the population aware of emergency responses are part of the contingency planning efforts.

Often, the government appoints a special emergency coordinator with staff who coordinates the emergency response on behalf of the government. Coordination is a must since the emergency response may include the defence forces, the police, security and intelligence services, customs, border guards and the coast guard, health and rescue services, transport agencies, port and airport authorities, environmental agencies, immigration services, energy and power suppliers, telecommunication authorities, ministries, national and local authorities, and private companies.

Examples of concrete emergency measures are: restriction of the freedoms of the media; control of transportation and communications; evacuation of people and places; destruction of property, plants and animal life; confiscation of private property, means of transportation and logistics; regulating the operations of private enterprises; regulating or halting financial transactions; installing export and import regulations or restrictions; prohibiting assemblies; creating an offence of not complying with emergency regulations; searching homes and other private places without warrant;

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[30] OSCE, *Copenhagen Conference on the Human Dimension*, 1990, § 25.
[31] International Covenant on Civil and Political Rights (ICCPR), Art.4 (3).

arresting people without a cause; deployment, engagement and combat of the armed forces; and stationing and engagement of foreign troops.

The Armed Forces

Generally, only in two kinds of national emergencies will the armed forces be mandated with overall command: in war or in need of securing an area.[32] In both cases, the armed forces will carry out their tasks at the strategic, operational and tactical level in joint operations. A decisive factor in the success of overall operations is the ability to coordinate all the subordinate activity within the area of operations. In war, the government can place some bodies and services of the security sector, private companies entrusted with public tasks, and even industrial companies under military control. Moreover, the government can oblige everyone to place his movable and immovable assets at the disposal of the military authorities and units for the achievement of the military mission. This obligation may also apply to necessary peacetime preparations. Military authorities and units may only make use of their requisitioning powers to the extent that their missions make this absolutely essential and that they cannot achieve them using their resources.

To secure an area is a matter both of overcoming an acute crisis situation for the country and the population using the armed forces' own resources and of containing the risk of further escalation. With the forces available, the aim is to prevent, contain or neutralize violence of strategic proportions. If ordered by the government, area security operations may be coordinated or conducted with the armed forces of neighboring states. The operations are designed to produce a stabilizing effect; guarantee the safety of the population; maintain the ability of the state, society and the economy to function; and to ensure the state's leadership full freedom of action. Such operations are a flexible response to a wide spectrum of frequently asymmetric threats or insurgencies. Area security may include the following operations: safeguarding air sovereignty; securing large sections of the land or sea border by means of a major presence to prevent border violations; protecting key areas to prevent attacks of installations essential to the war effort and occupying important areas for future operations; keeping transit routes open; and protecting critical national infrastructures and facilities.

Defence sector resource employment in all other cases of emergencies will fall under the broad category of military assistance to civil authorities. The armed forces will provide assistance if required. Such assistance will be rendered in the form of *subsidiary* operations. Operational responsibility will lie with the civilian authorities.

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[32] This is justified by the three roles military professionals play in society: (1) they are experts with specialized and superior knowledge and skill, mastered through continuous study and practice, in the management of violence, the ordered application of force. (2) In wartime, this expertise means learning how to apply technical skills on the battlefield, how to employ strategy, and make use of operations and tactics to defeat the enemy. (3) In peacetime, military expertise requires that soldiers study and draw the appropriate lessons from military history, identify and master the use of weapons and equipment needed for future conflict, and prepare doctrine based on those weapons and the capabilities of likely enemies.

Normally, the armed forces will decide the make-up of the forces to be deployed and engaged and will bear the command responsibility for all units and engagements. The *rules of engagement* will be established jointly by the relevant senior civilian representative and the military commander. Such subsidiary operations are conducted to ward off grave threats to internal security; to prevent and manage vital threats; to engage in designated law enforcement activities; for border protection tasks; to secure conferences, the state's institutions, and critical installations; to provide security for people, VIPs, and transports; to provide rescue and disaster relief; or to support aid or humanitarian operations. However, the military should only become directly involved in the provision of major humanitarian relief operations when there are no civilian agencies available or when conditions make their employment impractical and as a last resort.[33]

The armed forces can be used to support civil authorities and assets already engaged, to support a lead agency, or to augment where possible, and replace when necessary, overwhelmed civil agencies in the following areas: operations planning and management; transportation planning, management, and vehicle, rail, air, and water transport; search and rescue operations; medical services at all levels of care; preventive medicine and veterinary operations; medical casualty decontamination and evacuation; recovery, identification of remains and mortuary services; processing of displaced persons; nuclear, radiological, chemical, and biological reconnaissance, protection, and decontamination; supply operation of subsistence and fuel; water purification and distribution; temporary housing management and base construction; infrastructure repair and enhancement; damage assessment and management; repair and maintenance of transportation infra-structure; food service operations; security and traffic management; fire-fighting; psychological operations; public affairs; civilian-military coordination; information recovery and management, and information operations.

The range of possible requests to the defence sector for civil support assistance is enormous. Normally, the Minister of Defence retains approval authority in dealing with the most sensitive requests, such as those requiring the use of forces already assigned and engaged; military support of responses to civil disturbances or acts of terrorism; and any support for planned events that raise the potential for confrontation with specifically identified individuals or groups, including actions that may involve the use of lethal force. Below this threshold, the Minister of Defence may delegate approval authority for all other emergency support to subordinate officials.

All requests for military assistance are regularly evaluated against the following six criteria: *legality* – is the requested support in compliance with applicable law?; *lethality* – is there a potential use of lethal force by or against the armed forces?; *risk* – how will the safety of the forces be jeopardized?; *cost* – who pays and what is the impact on the defence budget?; *appropriateness* – is the requested mission in the interest of the ministry of defence to conduct?; and *readiness* – what is the impact on the ability of the ministry of defence to perform its primary mission?

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[33]   Wilkinson, Philip, "Sharpening the Weapons of Peace: Peace Support Operations and Complex Emergencies", *International Peacekeeping*, Vol. 7, No. 1, Spring 2000, p. 75.

The Security Forces

In a state of emergency, the *security sector* avoids the use of force and tries to use other tools of crisis management first. The use of force should be endorsed in protection of core values focused on upholding the rule of law. Political and economic engagement should be favored over confrontation. Whenever possible, the 'soft power' approach should be preferred: providing economic and political incentives to ensure good behavior.

The approach to reestablish security should be a multifaceted one using all available policy tools. The propensity to use a mix of tools is also useful for the demands of stability and reconstruction operations. In such operations, security issues should always be considered holistically with progress in one area 'spilling over' into progress in others.

The Division of Labour in the Defence and Security Sphere: Border Management in the EU

National frontiers are hugely symbolic. Physical delimitation of state borders has been one of the ways in which political entities have defined their sovereignty. While border controls and defence of the integrity of national territory have become the natural consequences of this commonly recognized principle, the EU has in some ways broken that mould by shaping a new political decision-making landscape in which sovereignty is shared among its member states. The resulting redistribution of responsibility among 25 states and the Union is an ongoing political process in which national interests and aims do not always converge. Even more problematic is that the EU's institutions have only limited and explicitly specified 'sovereign-shared' powers. This makes the organization of a region-wide border management system the most ambitious and challenging project of division of labour. It implies division of labour between EU institutions and the member states; multilateral division of labour between the member states due to their commitment to solidarity; bilateral division of labour between the members; and division of labour within the individual states.

Today, the main threats to border security are perceived as non-state actors seeking to cross national boundaries and evade national law enforcement efforts: international terrorism; organized crime; illicit smuggling of contraband including drugs, weapons and fissile materials; trafficking in human beings and organs; and illegal entry. In Europe, frontier controls have come to be seen as the EU's first line of defence against instability and its consequences – such as refugees and asylum seekers, crime, and the breakdown of law and order.

Since full *border control* is hardly possible, the term *border management* is preferred. The organizations and agents fulfilling functional security roles in border regions are referred to either as *border police* or *border guards*. The *security services* engaged in border management include police, customs, immigration, health and veterinary inspection, and many other actors. Border guard services are independent and specialized multipurpose organizations, subordinated to ministries of the interior,

justice or home affairs, or part of the national police force, and as such the *main interlink* to other security services. The most effective border security organization is a single unified system based on a centralized authority with clear areas of responsibility and an unambiguous line of command. The border security authority must have strict discipline and a strongly hierarchical organization, but must also allow regional units with better knowledge of local conditions to tackle problems effectively, implying a degree of decentralization in the decision-making processes.

The operational demands, however, of managing land borders on the outer edges of Europe, in regions where the state is weak and armed gangs make incursions, may make a police organization and its capabilities inappropriate. Often working in dangerous environments, border guards have a traditional affinity to military units. Even police-oriented border services require a robust mobile or rapid-reaction response that depends on military-style discipline to be effective. It is here where contingency plans have to be developed with focus on how the border management can be reinforced in emergencies with resources from the *defence sector* and how to train these for their engagement. Yet, in normal times, the management of illegal trafficking and migration is essentially a policing activity. This means that responding to migrant and alien smuggling involves the border guard working with the regular police, other government agencies, international organizations, and NGOs, and that policing functions must be implemented with respect for human rights. This can only be done efficiently by fully professional organizations.

Since transnational cross-border threats are a concern common to all EU member states, these require common, coordinated and harmonized policies in order to be dealt with effectively. These policies have given birth to the concept of *integrated border management* which emphasizes the need for all actors concerned with border security to coordinate their efforts. Customs offices, migration, and various inspection authorities need to work closely with border police organizations. Since border security is no longer simply a national concern, international cooperation is called for. Border management systems therefore must include cooperation on the *national, interagency* as well as on the *international, regional, multilateral* and *bilateral* levels. This is why arrangements for managing the frontiers have been a major preoccupation in Europe ever since the EU abolished the internal borders of the Schengen signatory states and had to find measures necessary for achieving the area of *freedom*, *security*, and *justice* envisioned by the Treaty of Amsterdam.

An area of freedom means not only ensuring the free movement of persons but also protecting fundamental rights and combating all forms of discrimination. Similarly, respect for private life and the protection of personal data must be guaranteed.

An area of security includes the combating of crime, in particular terrorism, trade in human beings, crimes against children, drug and arms trafficking, corruption, and fraud. Special Action Plans on Crime and against Drugs are implemented. Europol also plays a central role as an essential instrument for increased cooperation between the member states, particularly at the operational level.

An area of justice guarantees European citizens equal access to justice and to promote cooperation between judicial authorities. On civil matters, judicial cooperation

aims at simplifying the environment of European citizens. On criminal matters, it strengthens the cooperation of prosecution and provides a common sense of justice by defining minimum common rules for criminal acts, procedures, and penalties. Emphasis is also placed on the specific case of cross-border disputes.

The Schengen Implementation Convention created the Single Market, defined as 'an area without internal frontiers in which the free movement of goods, persons, services, and capital is ensured in accordance with the provisions of this Treaty'. And it created a single *external border* where immigration checks for the Schengen area are carried out in accordance with a single set of rules. With the exception of the UK and Ireland, all member states of the EU have signed Accession Protocols to the Schengen Agreements,[34] whereas the non-EU countries Iceland and Norway signed cooperation agreements.

An EU Action Plan[35] was adopted which dealt with the concepts of freedom, security and justice, and outlined the approaches to be followed. It gave substance to these concepts by defining the priority objectives and provided a coherent framework for the development of EU action, while guaranteeing tighter judicial and democratic review by the Court of Justice, and the European Parliament respectively. The criteria taken into account were: the guidelines laid down by the Treaty of Amsterdam; the principles of subsidiarity and solidarity; operational effectiveness; the limits set by the Treaties – *the member states have sole competence regarding their internal security*; and a realistic approach regarding the time and resources available. For a number of other problems the EU had to find communitarian solutions: asylum and immigration; judicial cooperation in civil and criminal matters; improved cooperation between police and the judicial authorities; extension of the operational capabilities of Europol; intervention of law enforcement authorities of one member state in another; mutual assistance between national authorities, mutual recognition of decisions and enforcement of judgments as well as extradition between member states; reinforcement of action against money laundering; and harmonization of criminal law.

Throughout this period, a constant theme of the debate has been that the removal of controls at internal borders requires *compensatory* or *flanking* measures to strengthen controls at the external frontier. In order to prevent the free movement of persons within the so-called *Schengenland* creating security problems, a range of compensatory measures for the removal of the filter function achieved by border controls had to be agreed upon.

External border control was key to EU enlargement, not only because a coherent and effective common management of the external borders of the EU is needed for the internal security of EU countries and citizens, but also because it is crucial in the fight against terrorism and organized crime, and particularly against illegal immigration networks and the trafficking in human beings.

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[34] At present, the Schengen Area consists of 25 member states, of which 23 are EU members and 2 non-EU member states: Iceland and Norway.

[35] Council and Commission Action Plan of 3 December 1998 on how best to implement the provisions of the Treaty of Amsterdam on the creation of an area of freedom, security and justice. Official Journal C 19, 23.01.1999.

All legal instruments and the operational experience built up in the *Schengen acquis*[36] were integrated into the institutional framework of the EU by the Treaty of Amsterdam and the Protocol annexed to it. The *Schengen acquis* consists of *acts* and *measures* taken. The *main measures* taken to compensate for the free movement of persons within EU territory are: removal of checks at common borders, and replacing them with strict control[37] of the external border; a common definition of the rules regulating the crossing of external borders; separation in air terminals and ports of people traveling within the Schengen area from those arriving from, or traveling to, countries beyond this area; harmonization of the rules regarding conditions of entry and visas for short stays; coordination between administrations of border surveillance (liaison officers, harmonization of instructions, and staff training); definition of the role of carriers in the fight against illegal immigration; requirement for all non-EU nationals moving from one country to another to lodge a declaration; and drawing up of rules for asylum-seekers.

Beside the binding legislation of the *Schengen acquis,* there are other provisions called *Schengen standards*, which commit the member states politically, the most relevant of these being the *Catalogue of Recommendations and Best Practices* developed by the *Schengen Evaluation Working Group*. The *Catalogue* is used as a reference whenever the implementation is being evaluated in a member state. Its content covers the whole range from the European four-tier[38] border security system, setting requirements for the national system for border management. Other relevant standards derive from the commitment of states to the European Convention on Human Rights, in particular: *international protection*, the *use of force,* and *data protection*.

Analysis of some of the Standards Defined in the Acquis

The *Schengen acquis* provides a good basis for the establishment of a security system in the member states. If implemented in letter and spirit, the provisions are almost exclusive. The main requirements cover: crossing external borders; border checks; the

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[36] "The Schengen Acquis and its Integration into the Union". At: http://europa.eu.int/scadplus/ leg/en/lvb/l33020.htm

[37] A distinction is made between *frontier* or *border controls* and *frontier* or *border checks*. Frontier controls are systematic, and require every individual who enters a country to pass through an immigration control channel. Frontier checks are intermittent, and are used mainly for customs and policing purposes (such as anti-terrorist measures). Some Schengen countries, such as France, operate checks in a 20 kilometer frontier zone where mobile patrols stop individuals and vehicles which they suspect are engaged in illegal activity. There are, however, no systematic static controls at the border.

[38] A coherent and integrated *border strategy* encompasses four distinct but interrelated levels of measures: Level 1 consists of activities in and agreements with countries of origin and transit, with a particular focus on consular cooperation – the issuing of visas. Level 2 refers both to bilateral and Union cooperation with neighboring countries. Level 3 seeks to ensure border security by carrying out effective checks at the authorized crossing points as well as surveillance between them. Level 4 focuses on activities inside the territory of the member states when there are grounds for investigation and law enforcement.

authority of the border guards; border surveillance; Schengen solidarity; intelligence and risk analysis; professional skills and training; organizational structure; cooperation between authorities; infrastructure; and equipment. In the following, the requirements are summarized that may be of relevance in case of reinforcement of the border guards with *defence* resources:

Crossing external borders: The external borders may be crossed only via the authorized border crossing points, which are listed for each country. Some marginal exceptions are allowed, but all cases exclusively regard named individuals who have been issued with a specific personal privilege by the authorities. Unauthorized crossing of the border is punishable.

Border checks: At the border crossing points, all persons have to be checked during entry and exit. At the very minimum, the person shall be obliged to present a valid document, and the document shall be checked for obvious signs of falsification. Aliens will always be subject to a thorough check, where the whole set of conditions of entry are checked, including whether the alien may pose a threat to public or national security. This requires a dialogue with the alien, a check of the Schengen Information System database for references, and a check of the genuineness of his document. These measures take time, depending on the case at least one minute per person, but the border guard must take all the time needed in order to be able to decide whether the conditions of entry are met.

The authority of the border guards: The border guard service[39] shall constantly possess the authority to make all relevant inquiries, use registers and to decide on the refusal of entry and to carry out criminal procedures at the border crossing point. The border guard shall also have the authority to check the inside of the vehicle and the objects carried by the person being checked.[40]

Border surveillance: Border surveillance is an essential part of border management. It cannot provide full security for all parts of the border, but it should have a sufficient crime prevention effect. To have any effect, border surveillance must be able to manage a two-fold function: to detect illegal border crossings and to direct a suitably equipped and qualified force to counter illegal movement. The *border surveillance performance* can be evaluated in terms of *situational awareness* and *reaction capability*. Situational awareness indicates how the monitoring is arranged.[41]

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[39] For a list of national services responsible for border controls see: COM (2004) 391/F; Proposal for a Council Regulation establishing a Community Code on the rules governing the movement of persons across borders; Annex IX; pp. 209-210.

[40] The powers to check the car and the objects are not there to diminish the powers of the Customs officials, but to prevent threats towards public order or security of the contracting parties. The Customs shall in any case have full powers to make customs and excise controls.

[41] As a theoretical example of *situational awareness* of one border guard unit: (1) 10 % of the borderline (strip of 1 km on both sides of all roads and paths crossing the border) is covered by technical surveillance 24 hours daily; (2) 40% of the borderline is covered by daily patrols that use variable surveillance positions. Each part of this strip is covered in the average 6 hours daily so that an illegal border crossing would be detected immediately; (3) the remaining 50% of the border are remote areas where the terrain is partly hindering

Reaction capability indicates the type, readiness and availability of assets to be used to counter an illegal border crossing.[42] Neither number nor quality of personnel are defined, but the *green border* can ideally be covered by a network of stations some 20-25 km apart, each manned 24 hours daily and, provided with a night-vision surveillance capability, able to constantly monitor some parts of the border. A good operational concept defines the methods of providing situational awareness and reaction capability. Elements to be defined are: tactics used for monitoring and apprehensions; code of conduct in regular and irregular situations; deployment of forces; use of different assets such as reserves; methods of applying support from neighboring units; and use of assets and reserves at the disposal of higher managerial level. Reference between the performance and the level of detected crime allows for a just estimate whether the border surveillance is 'sufficient'.

Schengen solidarity: Border management is to be conducted to improve the security of *all contracting parties* – hence in the spirit of 'Schengen solidarity' as defined in the Schengen Convention. Storage and exchange of information are necessary in order to facilitate valid evaluation of the border situation in different areas. This applies within a single state as well as between the contracting parties. Systematic storage of data and readiness to exchange information are among the necessary steps to be taken. In practice, this requires a computer network covering the whole border guard service.

Intelligence and risk analysis: Based on the binding *acquis*, the standards require the setting up of a system for *risk analysis* and *intelligence*. The system should make all border guards qualified profilers, utilizing intelligence products in their daily work. The Catalogue defines two sets of risk analysis: *operational* and *tactical*. The operational risk analysis deals with flows of traffic and system analyses in order to evaluate the effect of border management, estimate the total number of existing border-related crime, and to find system gaps. The tactical risk analysis relates to real-time management of border guard measures. At the border crossing points, this means profiling of clients in order to find out which persons should be controlled more thoroughly than others. At sea, this means references between surveillance data and available intelligence information. This reference is made in order to decide which

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passage. This area is covered at least by weekly inspection with a tracker dog. This makes an average coverage of 12 hours/week, when an illegal border crossing would be detected with some delay. The roads and paths close to this area are covered by daily controls (average 5 hours/day). A major flow of illegal traffic would soon be noticed even in such an area under a lesser control.

[42] As a theoretical example of the *reaction capability* of one border guard unit: (1) all surveillance patrols consist of 2 men equipped with night vision devices and normal police equipment (suitable for apprehension of some unarmed individuals); (2) at the area of each border guard station there are at least 5 persons on duty, and they can be concentrated to any point of the area within 30 minutes. By separate order they can all be provided with protection equipment and long-range armament suitable for the terrain and threat. At least 1 tracker dog is on duty 24 hours in each station; (3) a special squad is in readiness. Normally 10 men will be at the crossing point within 30 minutes from alert. They are specially trained and equipped to manage pursuit and arrest of violent and armed suspects.

vessels should be checked more thoroughly. The border guards should become the primary sensors for information that will be systematically developed to countrywide strategic assessment of risks and threats.

Organizational structure: The organizational structure should allow fulfillment of the following requirements: all persons crossing the external borders shall be checked and border surveillance arranged; the level of control measures all over the external borders shall be equal and the measures proportional; there shall be enough suitably qualified officers to carry out checks and surveillance and these shall be authorized to check personal data, documents, goods and the vehicle; there shall be a managerial touch that provides sufficient resources and tactics related to the situation and a complete knowledge of regional and local circumstances; the performance of a border management system shall be adjusted in accordance with the prevailing conditions along its borders and, where necessary, the allocation of resources adapted accordingly; exchange of information shall be arranged between central and local levels; the personnel shall meet high professional standards guaranteeing a coherent practice of providing facilitation, rights, and security. This shall be guaranteed by sufficient basic and continuous training; and the organization must be able to apply such methods as intelligence, risk analysis and crime investigations.

These requirements can best be met by establishing an independent specialized border guard service responsible for the management of all borders and under the competencies of a ministry responsible for justice and home affairs. The organization should be effective, efficient and flexible, and its personnel disciplined and motivated. The internal structure should be defined by responsibilities and hierarchy. A failure in border guard duties may have major implications not only in the state responsible for the failure, but also in other states. This is why good border management is one of the primary interests of other member states. In this regard, border management is more important than several other police duties on which an individual state is primarily responsible to its own residents.

Cooperation between authorities: The Treaty on the EU concerning provisions on police and judicial cooperation in criminal matters calls for closer cooperation between police forces, customs authorities and other competent authorities in the member states, both directly and through Europol. It also calls for operational cooperation between the competent authorities, including police, customs and other specialized law enforcement services of the member states in relation to the prevention, detection and investigation of criminal offences. The Schengen Catalogue indicates some ways to arrange this cooperation: meetings; joint risk analysis; joint training; and an integrated approach towards illegal immigration are defined as best practices.

The cooperation arrangements existing in Finland are seen as a good practice of the *division of labour within a state*. There, all three authorities have been granted some of each other's powers. Each authority is holding the main responsibility over its core tasks. Based on permanent or *ad hoc* agreements, the other authority may carry out necessary tasks on behalf of the main responsible authority, this mainly in the absence of the latter. The assisting authority has to fully obey the instructions of the main responsible partner and report accordingly. This arrangement guarantees the best level of service, especially in remote areas, where often only one of the authorities can

be present in due time. Because the basic training of all 3 authorities is similar, they can quite easily be instructed on how to carry out the first measures or some simple basic tasks on behalf of each other.

Infrastructure: A Schengen Executive Committee's decision defines how passengers shall be separated at the airports in order to prevent unchecked persons in non-Schengen traffic from being mixed with persons in internal traffic. This requires a full physical separation preventing persons and documents from being swapped between the different areas. At land border crossing points, the structures should be such that, in principle, the car passengers may remain seated in the car while the check is being conducted. Among the recommended items are: hand in hand management of traffic flows in cooperation with the authorities of the neighboring state; separate lanes for different types of traffic; the lanes must be marked clearly and organized flexibly; number and capacity of lanes and personnel should fulfill fluid and quick but Schengen-compliant checks and surveillance; specific booths should be arranged for border checks which should be facing the passengers (at ports and airports) to allow the passport controller to monitor the queue; the passport controller's line of sight should be above the heads of the passengers to allow monitoring, and unauthorized observation of the inside of the booth should not be possible. An adopted practice in some evaluations is to expect the following structures: a second line office, where further investigation of complicated cases can be made; a second line document checking office with special devices for thorough document checks; and holding or waiting rooms for persons who are not allowed to enter or exit. Persons in need of protection shall be separated from detained persons suspected of crime, and males should be separated from females.

Equipment: The Schengen Catalogue defines equipment for border checks at the first line (booths) and second line (back-up office), as well as for border crossing points with no fixed positions where mobile equipment is required. All border crossing points must have online connections to a national database and the Schengen Information System, and they must be equipped with telephone and telefax lines. Moreover, computers and suitable software are needed to gather statistics and information, and these should be connected to various databases that can be developed based on existing national registers. IT connections must be secure and encrypted.

All border guards should have the possibility to protect themselves and other persons in cases requiring use of justified force. To provide the possibility to use minimum force, border guards should have at their disposal such devices as batons and gas pistols. Personal side arms should be used only against serious cases. Submachine guns can be available in all units as the first back-up weapon for dangerous encounters. Whether the armament should be carried constantly, is a matter to be evaluated on the spot, based on risk analysis and local culture.

For border surveillance, units must be equipped with radios. To avoid the monitoring of radio traffic and content by criminals, communications should be encrypted. Border patrols should be equipped with night-vision devices, personal side arms, submachine guns and eventually heavier weaponry for longer ranges. Tracker dogs should be used as the best means for detecting border violators. Border guard

stations should be provided with vehicles, eventually with air assets, and transport for the reserves.

Moreover, the Schengen Catalogue proposes several types of fixed, portable or mounted sensors for border surveillance. The choice must be based on analysis of the local situation and circumstances, while the most vulnerable parts of the border should be monitored permanently. At sea, basic monitoring may be conducted efficiently by means of an integrated radar network. Patrol boats, offshore patrol crafts and air assets are needed to complement radar surveillance. To cover longer coasts, a network of coast guard stations is needed to accommodate response and patrol units. These stations can also be used as border crossing points for some types of maritime traffic like pleasure boats and smaller fishing vessels.

Integrated Border Strategy and the Establishment of a European Agency for External Borders

Since the accession of 10 new member states to the EU in 2004, the external borders of the EU have changed considerably. In the south, Malta and Cyprus are now the most outward territories of the EU. But more spectacular change can be found at the eastern external border, which was extended by 3000 km. The displacement of the external border gave rise to new security problems, particularly manifest in organized criminal networks and illegal migration. The relevance of external borders, and the importance of a more *integrated management* of the EU's external borders began to gather momentum in large part for four mutually reinforcing reasons and needs: (1) to guarantee a high level of security after the enlargement of the EU; (2) to pursue the fight against 'imported' organized crime, especially in the field of illegal immigration and human trafficking; (3) to neutralize, in a coordinated way, terrorist risks in the post 9/11 environment; and (4) to reinforce mutual trust between and among member states that had already lifted their internal border controls. A lack of trust might mean, conceivably, the reintroduction of internal controls.

These concerns resulted in the endorsement of a *Plan for the Management of External Borders* intended *inter alia* to improve the coordination of *national*, *joint* and *combined* operational activities. These activities had started with the *External Borders Practitioners' Common Unit* for the responsible commanders of the border guard services of the member states. By creating a *European Corps of Border Guards* and establishing a *European Agency for the Management of Operational Cooperation at the External Borders*, Europe has moved towards *multilateral border services* – thus to *multilateral division of labour*. The common policy was structured around five components: a common body of legislation; a common operational coordination and cooperation mechanism; a common integrated risk analysis capability; convergence on staff training and interoperable equipment; and burden-sharing between the member states and the EU.

With regard to the first component, a *Community Code on the Rules Governing the Movement of Persons across Borders*[43] was established. It aims to restructure, clarify, and develop the existing rules and practices in the field of external borders. The integrated border management's four other components were incorporated into the *European Agency for the Management of Operational Cooperation at the External Borders.*[44] It is under the political control of the Council but not authorized to carry out border checks. Instead, it does the following: coordinate and evaluate the different activities of the Centers, the pilot projects and the joint operations, and start operations on its own initiative; assist member states in dealing with circumstances requiring increased attention; carry out risk analyses, ensure a systematic flow of information, and follow up on the development of research; assist in developing common training core curricula for border guards; enhance co-operation with third countries; take a significant first step toward burden-sharing by assisting those member states that face disproportionate expenses in dealing with third country nationals and bear exceptional pressures in the control and surveillance of their external borders; and finally provide assistance with joint removals of third country nationals who are subject to an individual expulsion order.

The *Training Center in Vienna* has developed a Core Curriculum for border guard training as a common standard for first, second and mid-level officers' basic training and has set up a permanent network composed of national academies for border guards. Three training modules are of particular importance: taking into account and leveling out national customs and administrative rules as they intertwine with common Community rules; the development of an immersion training program in different member states in order to give guards specific legal and linguistic knowledge before joining multinational teams in joint operations; and shaping the personal behavior of border guards to observe the human dignity and basic rights of border crossers, to develop a professional and welcoming attitude toward the people crossing the borders, and to refrain from humiliating treatment in words or acts. It organizes specific courses for the national border guards participating in the operations of the *focal points at the land borders*.

The *Risk Analysis Center in Helsinki* has developed a common integrated risk analysis model that is flexible enough to be used for global reports, but can also be tailored for the analysis of specific target groups or territories. The risk analysis reports can in turn stimulate and plan with greater precision the kinds of joint operations that need to receive priority. Conversely, when border guards in a specific locality become aware of repetitive criminal behavior – for instance, the discovery of recurrent and similar types of forged documents or a repetitive *modus operandi* of human traffickers – an information chain can be immediately established to start a rapid risk analysis. If circumstances demand it, this could be followed by joint operational decisions. In other words, risk assessment should trigger joint action when weaknesses are identified, in particular if the latter are of a structural nature.

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[43]   COM (2004) 391 final 2004/0127 (CNS).
[44]   COM (2003) 687 final 2003/0273 (CNS).

The *Center for Land Borders in Berlin* has organized a series of joint operations at the external borders with some new and old member states. The positive results of these activities reside mainly in the effort of establishing a common methodology of organizing, evaluating and targeting these joint operations with the active involvement of the participating guest border guards. This center has also developed the concept and the organization of *focal points* – multinational teams – at the border crossing points.

The *Air Borders Center in Rome* has set up a structure based on a few border guards who organize the stock taking and the exchange of data and information about the number and nationalities of the illegal immigrants detected and deals with them at the air border crossing points of a number of European airports.

Operating in the UK is the *Center of Excellency* that is developing technological methods to discover and reveal clandestine immigrants in cargoes.

The 'Program of measures to combat illegal immigration across the maritime borders of the member states of the EU'[45] has become a substantial part of the working program of the *Sea Borders Centers* in Greece and Spain – a task still partly performed by maritime assets of the *defence sector* of the member states. It proposes measures that cover first the controls between ports in the EU area and from or to third countries' ports. Second, they design solutions for coastline and high sea surveillance and control, and encourage the conclusions of agreements with the countries of origin or transit of the illegal immigrants. The execution of this program has been integrated into the work program of all the existing centers.

One important cooperation and division of labour aspect concerns the nature of the tasks to be assigned to the guest border guards during *joint* and *combined* operations at the external borders. Possibilities for member states should exist to confer executive powers to the guest border guards operating on their territories. This benefits the exchange of staff between member states at border crossing points and the creation of common units of border guards.

Burden-sharing has two aspects: operational and financial. The Agency will clearly provide operational support to member states in need. Once all internal controls are lifted, the human and financial responsibilities of member states without external land and sea borders will decrease dramatically. At the same time, member states with long and difficult external borders will experience greater responsibilities and will be discharging these responsibilities in part on behalf of all member states. It may be difficult to imagine a direct monetary contribution from one member state to another. As all members benefit from the effective and efficient management of external borders, the case for consistent institutional support of the Union both in terms of financing and equipment is therefore compelling.

Cooperation with third countries: strengthening and systematizing the dialogue with third countries on migration and asylum is recognized as a key component of the EU's external relations. Similarly, operational co-operation and practical working level arrangements with third countries are also necessary, not only in order to enhance security, but also to create a smoother system of managing borders,

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45   Council Document No. 15445/03.

and to help anticipate potential problems before they become critical. This is a particularly relevant issue in the area of trading and trafficking in human beings. Similarly, close contacts and arrangements with the various international and intergovernmental bodies, including Europol, can also facilitate better controls and surveillance.

Establishing an area without any internal border controls on persons is conceivable only in connection with an efficient *integrated external border management regime*. It draws legitimacy from its necessity while its effectiveness depends upon equal levels of commitment from all member states operating within a single structure. Putting it differently, it is not enough to talk of common external border controls if every country minds primarily only its own interests. One thing is certain: more effective border controls are a political project that will be driven by needs, evidence of success, and growing habits of cooperation.

The control of maritime borders is an issue where a pressing need exists and the creation of an operational EU multinational body with a legal capacity for action should be considered. The horrors of human trafficking and deaths in illegal sea crossings are by now familiar, but there are other types of smuggling and illegal activities that also pose problems on the coasts throughout the EU. The current array of responses includes liaison officers, one-time operations, joint working teams at ports, and common rules. These are useful tools but they are subject to legal and technical limits. Joint operations have encountered language problems, differences in operational methods and, above all, legal difficulties due to the limited tasks that officers of one member state are authorized to carry out on the territory of another member state.

Establishing an *EU Multinational Coast Guards Corps* could address many of these issues, particularly since, unlike land borders, most maritime controls would be carried out outside national ports. Such a body would share a common staff and procedures, a common hierarchical structure and operational command, common training and use of languages, common use of both fixed and mobile infrastructure such as radar and satellites, common prerogatives of public authority irrespective of the officer's nationality, and the authority to apprehend, and hand over, a person to the competent national authorities. Such an effort would share and reduce national and EU costs.

Hot Pursuit

Cross-border cooperation aims to assist in the prevention, investigation and prosecution of particularly serious infringements such as illicit traffic in drugs, psychotropic substances and precursor substances, weapons, cultural goods, dangerous and toxic waste and nuclear material and illegal cross-border commercial trade in taxable goods that have major financial implications.

In emergencies, cross-border operations may entail *hot pursuit* of a person observed in the act of committing one of the above infringements into another member state without that state's prior authorization. Similarly, the Convention provides for cross-border surveillance, whereby one member state's customs administration may continue to keep watch in the territory of another member state on a person suspected

of involvement in one of those serious infringements. The Convention also provides, when a member state so requests in the framework of criminal investigations into extraditable offences, for member states to organize controlled deliveries of goods in their territories. The Convention further allows scope for covert investigations of limited duration to be conducted under certain conditions, i.e. provides for authorization to be given for customs officers to operate under a false identity – covert investigators – in the territory of a neighbouring member state. In this connection, the police of both states may set up joint special investigation teams.

The Convention defines the procedures and conditions for all these forms of cross-border cooperation. Given that national laws governing hot pursuit, cross-border surveillance and covert investigations differ considerably, each member state may, when depositing its instrument of ratification, declare that it is not bound by all or part of the provisions concerning those specific instruments. Such declarations may be withdrawn at any time. On the other hand, member states may on a bilateral basis extend the scope of the provisions in those areas.

In September 2004, the justice ministers of Spain and France announced the creation of the first *Joint Investigation Teams* (JIT) between EU member states, established under a Community Directive agreed on in 2002. The agreement goes well beyond the existing hot pursuit accords between some EU countries, which allow forces to continue pursuing criminals who cross the open borders of the Schengen area, and is as yet the most far-reaching agreement signed by EU states as they seek new ways to combat international crime. JITs are units composed of magistrates and officers from two or more countries to act as judicial police, with the powers to carry out searches, interrogations and court-approved communication interceptions within the participating countries' territories. There is shared access to the results of investigations carried out under this framework.

The JIT's purpose is to identify, find and detain the members and accomplices of ETA and other terrorists. Two prosecuting magistrates from the national courts that have exclusive competence for investigating terrorism, the *Audiencia Nacional* in Madrid and the Anti-terrorist court in Paris, direct the teams, made up of 10 Spanish and 10 French policemen. Officers from each country operate on their counterparts' territory with no further restrictions than those applicable for officers from the country itself.

Spain also seeks to structure a similar JIT to investigate suspected terrorist financing networks believed to operate in Spain with ramifications in France and Morocco. Tribunals may launch the creation of JITs on issues for which they have competence. Otherwise, it is up to the state security departments in cases where only police officers are involved, or the justice ministry to establish new JITs. Although the teams are to dedicate themselves to combating people-smuggling, drug trafficking and terrorism, the evidence they gather, may also be used 'for detecting, investigating and prosecuting other criminal offences and for preventing an immediate and serious threat to public security'.

The Way Ahead

The enlarged EU must work within its limits. Creating more secure borders is not about building a fortress or new walls. It is about making clear common rules and practices for legally crossing the EU external borders. Thus, transparency, public awareness, quality and speed of service, and protecting the confidentiality of travelers should be high priorities. If it is to enhance border controls through a common approach, this enlarged Union has to be more accessible and attentive to citizens' needs and concern.

However, democratic control and oversight of this sector has been neglected until recently. Democratic civilian control and oversight of border management is essential because of the potential of border guards, as a *specialized police force*, to engage in corruption, discrimination, human rights violations, and excessive use of force. Certain aspects of the Schengen Information System still lack sufficient legal safeguards concerning human rights, data protection, free movement across borders, and rights of stateless people to travel. Oversight, accountability and transparency concerns also arise with regard to state claims of exception to the Schengen regime. Oversight by courts and the judiciary is often suboptimal. This is why border management needs a well-functioning legal framework that will serve as the basis for a state's actions, setting out limits to border guard authority and making its duties and responsibilities clear to it and outside actors. In turn, this will clarify and legitimize the functions and competences of border security authorities, preventing the emergence of ambiguity with regard to their role. Moreover, the presence of a legal perspective in this field of action makes it possible to address the internal regulations of border services and of international cooperation. Internal means of accountability are equally vital, backed up by external sanctions as necessary. Thus, border management services, like other elements of the security sector, require multiple and effective oversight mechanisms, accountability and transparency.

The Different Approaches taken in Europe and in the US for the Division of Labour in the Security and Defence Sphere in the Fight against Terrorism

Depending on the country or the region, its history, tradition, experiences and politics, the *division of labour in the security and defence sphere* can result in different approaches. The fact is that in some domains there is just no uniform or ideal way to do the division of labour. Today, this is most visible in the different approaches taken in the fight against terrorism in Europe and in the United States. Though there might be no differences in the *ends* – the elimination of terrorism – these exist in the *ways* and *means*. The *ways* are a much more offensive orientation of US actions in overseas theaters as well as more comprehensive efforts to secure the homeland, and its *means* are incomparably superior to all what Europe could muster.

The point of departure is more or less the same in Europe and in the US. To counter terrorism requires *security* and *defence* of the homeland and other actions. *Security* is the national effort to prevent terrorist attacks within the country, reduce its

vulnerability to terrorism, minimize the damage and recover from attacks that do occur. *Defence* is the protection of the sovereignty, territory, population and critical national infrastructures against external threats and aggression. For the other actions, both the security and the defence sectors had to agree in concert on how to counter the terrorist threat and how to break down old barriers to collaboration. The framework for doing this was more or less the same in Europe and in the US: both divided the tasks into *anti-terrorist actions*, *counterterrorist actions*, and *consequence management*. *Anti-terrorist actions* are defensive, comprising all measures to reduce the vulnerability of communities; people and their food and water supply; social structures; transportation and communication systems; critical national infrastructures; and physical objectives at home and for certain objects also abroad. *Counterterrorist actions* encompass all proactive, preemptive, offensive, and retaliatory measures aimed at identifying, locating, deterring, preventing, interdicting and interrupting terrorist activities domestically and abroad. *Consequence management* includes all efforts, preparatory or subsequent, to limit the effects of terrorist attacks; stabilize and control the situation; and repair the damage done.

Strategically, the US has reacted against the new threats and challenges with a new *National Security Strategy*[46] that calls for preemptive use of military and covert force before an enemy unleashes weapons for nuclear, radiological, chemical or biological attacks on US soil or American troops overseas. The task of defending the nation is seen to have changed dramatically.[47] And the war against terrorists of global reach is seen as a global enterprise of uncertain duration that 'will be fought on many fronts against a particularly elusive enemy over en extended period of time'.[48] Thus, the consequence imposed by the asymmetry of the new threat is the change from a reactive to a proactive posture '… to exercise our right of self-defence by acting preemptively against such terrorists …' recognizing 'that our best defence is a good offense …'. 'The greater the threat, the greater is the risk of inaction – and the more compelling the case for taking anticipatory action to defend ourselves, even if uncertainty remains as the time and place of enemy's attack'.[49]

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[46] *The National Security Strategy of the United States of America*, Washington D.C., September 2002. The classified version is identified jointly as National Security Presidential Directive (NSPD) 17 and Homeland Security Presidential Directive 4. This was followed by 5 additional National Strategies: (1) for Homeland Security; (2) for Combating Terrorism; (3) to Combat Weapons of Mass Destruction; (4) for the Physical Protection of Critical Infrastructures and Key Assets; and (5) to Secure Cyberspace.

[47] Foreword by the White House: "Enemies in the past needed great armies and great industrial capabilities to endanger America. Now, shadowy networks of individuals can bring great chaos and suffering to our shores for less than it costs to purchase a single tank. Terrorists are organized to penetrate open societies and to turn the power of modern technologies against us. To defeat this threat we must make use of every tool in our arsenal – military power, better homeland defenses, law enforcement, intelligence, and vigorous efforts to cut off terrorist financing".

[48] Ibid., p. 5.

[49] Ibid., p. 6 and 15. "Traditional concepts of deterrence will not work against an enemy whose avowed tactics are wanton destruction and the targeting of innocents; whose so-called soldiers seek martyrdom in death and whose most potent protection is statelessness".

For the last century, international law recognized that nations need not suffer an attack before they can lawfully take actions to defend themselves against conventional *symmetrical* forces that present an imminent danger of attack.[50] Now, under *asymmetrical constellations*, the concept of imminent threat must be adapted to the capabilities and objectives of today's adversaries. To forestall or prevent indiscriminate hostile acts of devastation by adversaries exploiting *asymmetry*, the defender will have to act *preemptively*.[51] However, preemption should be used 'only after other remedies have been exhausted and principally in cases where a grave threat could arise'. Moreover, 'the risks of waiting must far outweigh the risks of action'.[52]

In Europe, preemption has been widely criticized as being in clear violation of international law. But there are also strong arguments for it.[53] NATO does not exclude preemption.[54] Preemption is also the strategic doctrine adopted by Russia,[55] France,[56] Australia, and even Japan[57] has reserved the right of preemptive defence. And in

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[50] Preventive action is taken on the assumption that an offensive attack by the enemy will occur sooner or later. See: Slocombe, Walter B., "Force, Pre-emption and Legitimacy", in *Survival,* Spring 2003, p. 124.

[51] The proof of the intention to attack might possibly be the detonation of a nuclear device or biological weapon in a city. To wait for such a case would not be acceptable in view of the potential number of victims.

[52] Guidelines offered by the then US National Security Advisor, Condoleezza Rice, in a speech at the Manhattan Institute, 1 October 2002. Moreover, there are the other criteria: (1) urgency of the threat; (2) plausibility of the danger; and (3) proportionality of the means – with intelligence remaining the basis for decision. None of these criteria are exactly measurable or enforceable.

[53] Houben, Marc, *Better Safe than Sorry. Applying the Precautionary Principle to Issues of International Security*, Center for European Policy Studies, CEPS Working Document No. 196, November 2003; at: http://www.ceps.be

[54] At the Prague summit in November 2002, NATO adopted a document (MC 472) in which, at least implicitly, preemption is discussed. Though "preemption" and "anticipatory self-defense" are not explicitly quoted in the new military concept of the Alliance for the fight against terrorism (because of the insistence of Germany and France), it is clear that NATO does not fundamentally rule out preemptive strikes. See also: Tanner, Adam, "NATO Says It Could Launch Preemptive Strikes", *Reuters*, Berlin, 31 October 2002.

[55] "Putin Reaffirms Russia's Right to Preemptive Strikes", *AFP*, Tuesday 4 November 2003. See also: Russian Chief of the General Staff, General Yury Baluyevsky: "We Will Take Any Action to Eliminate Terrorist Bases in Any Region at the Earliest Stage", *RFE/RL*, 8 September 2004.

[56] France, which not only opposed "Operation Iraqi Freedom" but also rejected the discussion over the principal option of preemption within the framework of NATO, explicitly mentions "capacité d'anticipation" and the necessity of the option of a preemptive strike in certain situations in its new "Programmation Militaire". See: Bunn, Elaine M., "Preemptive Action: When, How and to What Effect", *Strategic Forum*, No. 200, 2003, National Defense University, Washington D.C., p. 6.

[57] General Shigeru, the Director General of the Japanese "Defense Agency" stated in January 2003 the readiness of Japan to launch a "counterattack" should North Korea bring its missiles into a "ready for takeoff" position. See: Ishiba, "Japan to ´Counterattack´ if North Korea Prepares to Attack", in *The Yomiuri Shimbun/Daily Yomiuri*, 25 January 2003.

essence, we find the same diagnosis of the problem of asymmetric terrorist threats in the *European Security Strategy*:[58] 'In an era of globalization, distant threats may be as much a concern as those that are near hand … The first line of defence will often be abroad … Conflict prevention and threat prevention cannot start too early'. Thus, the European strategy calls for enlargement – building security in the European neighborhood. The future may show whether this is only a different choice of words, resulting from different military capabilities. It might well be that 'prevention through enlargement' is just the regional equivalent to the global US strategy of preemption.

European countries have long confronted terrorist threats that require law enforcement, intelligence, and also military responses. But it has to be recognized that the European experience with terrorism, especially as manifested in the 1970s and 80s, differed in fundamental ways from the threat of catastrophic terrorism posed by organizations such as Al-Qaida. The objectives of European home-bred terror groups differed from those of contemporary transnational groups in that they did not necessarily seek the destruction of a state or its government, but rather sought political changes or increased autonomy. As a consequence, they were not really interested in causing catastrophic loss of life, as that might prove counterproductive to their cause. Though the Madrid and London attacks are changing the current attitude, many Europeans still feel that they understand terrorism and its causes better than countries that have never confronted these threats. There is the belief that the terrorist threat can be managed and that negotiations, not force, are the preferred solution to dealing with this threat.[59] Obviously, such attitudes have been shaped not only by the European experience with the politically motivated terrorism of past decades, but also by the large Muslim minorities in many European countries. Quite a number of European politicians fear that any actions taken against extremist elements of these societies could result in a backlash and further radicalization. Given the presence of more than 16 million Muslims in Western Europe alone, this represents a source of serious concern.

There is another difference: Europeans tend not to see themselves 'at war' against an amorphous terrorist threat. Indeed, many take exception to the US characterization of the effort to combat terrorism as a military operation. Some opinion leaders show even a visceral dislike of the 'global war on terrorism' construct,[60] often holding the view that the US brought the 9/11 attacks on itself due to its policies, notably US support of Israel. In addition, there is a sense that participation with the US in the global war on terror will make their country a target.

The most visible difference in the approach of Europe and the US to fighting terrorism exists with the US Department of Homeland Security with its almost exclusive focus on the terrorist threat. There is no comparable counterpart in Europe since most of the functions of the Department of Homeland Security are spread across

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[58]   *A Secure Europe in a Better World. European Security Strategy*, Brussels, 12 December 2003.

[59]   Shapiro, Jeremy & Suzan, Bénédicte, "The French Experience of Counter-terrorism", *Survival*, Vol. 45, No. 1, Spring 2003, pp. 67–68.

[60]   Stevenson, Jonathan, "How Europe and America Defend Themselves", *Foreign Affairs,* March/April 2003, p. 77.

a range of ministries in European countries. Most functions of the Department of Homeland Security are to be found in a ministry of the interior, justice, or home affairs. More important: the enforcement capabilities of the Department of Homeland Security remain very modest compared to those of a typical Ministry of Interior or Justice in Europe, which exercises suzerainty over most if not all of a nation's law enforcement elements. This already had implications for the close relations most of the European ministries had established over the years with the US Departments of Justice and Transportation, which had to be reestablished with new interlocutors of the US Department of Homeland Security. Since it has also taken over responsibility for enforcing immigration and customs policy – in the past often the source of friction between the US and Europe – the Department of Homeland Security must now endeavor to develop sound relations with its European partners on matters of law enforcement and combating terrorism: efforts which require high levels of diplomacy and cooperation.

The Department of Homeland Security is the lead Federal agency for *Homeland Security*. Its responsibilities extend beyond terrorism to preventing, preparing for, responding to, and recovering from a wide range of major domestic disasters and other emergencies. But its primary mission is to prevent terrorist attacks within the US while the Attorney General leads the nation's law enforcement effort to detect, prevent, and investigate terrorist activity within the US.[61] This monster Department of Homeland Security with a staff of some 180,000 and a proposed budget of $ 41 billion for fiscal year 2006 must not only incorporate 22 organizations of totally different cultures, it must also coherently integrate the *ends*, *ways*, and *means* of the federal, state, and local levels to enable effective use of all available resources, at all levels of government, toward a common purpose: the security of America and its citizenry – a population of over 285 million, some 56 states, territories, and possessions, 3,066 counties, and thousands of municipalities. Furthermore, the key functions assigned to the Department of Homeland Security are: 'to detect, prepare for, prevent, protect against, respond to, and recover from terrorist attacks within the United States'.[62] As if not enough already, it must also provide guidance and coordination for the engagement of the resources of the US Department of Defence for *homeland defence* since this is a subset of *homeland security*. Hence, a monster job also for the division of labour in the *security* and *defence* sphere. The difference to Europe, however, is a much more comprehensive overall approach to countering one major threat: *international terrorism that may result in acts of catastrophic dimensions.*

Much of the shift in American politics since 9/11 has to do with the nature and requirements of *homeland security*. It is both public and private, interagency, and civil-military. Implementing the *National Security Strategy* requires cooperation across sectors of activity and jurisdictions of authority. Government-private sector coordination is vital to critical infrastructure protection. Agency-to-agency

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[61] *Strategy for Homeland Defense and Civil Support.* Department of Defense, Washington D.C., June 2005, p. 5.

[62] Presidential Executive Order 13228, which established the Office of Homeland Security within the Executive Office of the President.

coordination is the foundation of any national response to security threats involving multiple levels of government in a nation consisting of more than 87,000 government jurisdictions.[63] Civil-military coordination is indispensable for ensuring adequate military support to civilian agencies responsible for homeland security.

Homeland Defence

Homeland Defence is the protection of US sovereignty, territory, domestic population, and critical defence infrastructure against external threats and aggression, or other threats as directed by the President. The Department of Defence (DoD) is responsible for *Homeland Defence*. However, DoD does not have the assigned responsibility to stop terrorists from coming across US borders, to stop terrorists from coming through US ports, or to stop terrorists from hijacking aircraft inside or outside the US. Nor does DoD have the authority to seek out and arrest terrorists in the US. Nonetheless, homeland defence focuses on the role that the armed forces play in ensuring key elements of the much broader mission of homeland security.

Directed by the *Strategic Planning Guidance* of 2004, the *Strategy for Homeland Defence and Civil Support* integrates the objectives and guidance expressed in the *National Security Strategy*, the *National Strategy for Homeland Security*, and the *National Defence Strategy* to guide DoD operations to protect the US homeland. The *National Security Strategy* expands the scope of US foreign and security policy to encompass forward-reaching preventive activities, including preemption against hostile states and terrorist groups. The *National Strategy for Homeland Security* guides the national effort to secure the US homeland against terrorist attacks. It provides a framework for action at all levels of government that play a role in homeland security. The *National Defence Strategy* of 2005 identifies as its top priority the dissuasion, deterrence, and defeat of direct threats to the US. The strategy's implementation hinges on an active, layered defence that is designed to defeat the most dangerous challenges early and at a safe distance, before they are allowed to mature. It directs military leadership to properly shape, size, and globally posture to defend the US homeland; operate in and from the forward regions; swiftly defeat adversaries and achieve decisive, enduring results; and conduct a limited number of lesser contingencies.[64]

Before 9/11, the US armed forces focused on deterrence, stability, and war fighting missions arising overseas. The US homeland was regarded as a rear area, not a front line, and the job of securing it was primarily a task for civilian law enforcement

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[63] US General Accounting Office, "Homeland Security: Effective Intergovernmental Coordination is Key to Success", *Strategic Issues*, 20 August 2002.

[64] *Strategy for Homeland Defense and Civil Support.* Department of Defense, Washington D.C., June 2005, pp. 6-7. In addition to these overarching strategies, the Strategy for Homeland Defense and Civil Support is informed by, and complements, other key strategic and planning documents. These include standing National Security and Homeland Security Presidential Directives, the National Military Strategy, the National Military Strategic Plan for the War on Terrorism, the DoD Homeland Security Joint Operating Concept, and Military Transformation: A Strategic Approach.

agencies at the federal, state, and local levels. With few exceptions, most defence resources tasked for civil support missions in the US have been authorized on a basis of noninterference with primary mission requirements of the forces deployed abroad. Employment within the US and its territories typically has fallen under the broad category of military assistance to civil authorities.

Now, DoD has an *Assistant Secretary of Defence for Homeland Defence* to improve policy guidance to all DoD components on homeland defence and civil support issues. The *Chairman of the Joint Chiefs of Staff* coordinates with and assists US Northern Command, US Pacific Command, the North American Aerospace Defence Command, and all other combatant commands with strategic direction and planning for, as well as the execution of, homeland defence and civil support missions. *US Northern Command*, established in 2002 in Colorado Springs, is responsible for planning, organizing, and executing homeland defence and civil support missions within the continental US, Alaska, and territorial waters. It also coordinates security cooperation with Canada and Mexico. *US Pacific Command* has homeland defence and civil support responsibilities for Hawaii and US territories, possessions, and freely associated states in the Pacific.[65] The bi-national *North American Aerospace Defence Command* is responsible for protecting the airspace over the US and Canada. *US Strategic Command* is responsible for planning, integrating, and coordinating global missile defence operations as well as support for missile defence, including providing warning of missile attack, across all combatant commands, and for undertaking military space operations, conducting information operations, and computer network operations. The *Military Departments* organize, train, and equip US forces across operational domains, and provide the bulk of DoD capabilities likely to be requested for civil support and continuity of government operations. Other *DoD components* contribute to homeland defence through intelligence collection, analysis, and prioritization; capability assessments; and oversight of relevant policy, acquisition, logistics, readiness, and financial matters.

Given that the US military is the government entity charged with primary responsibilities for national defence, many naturally expect the armed forces to play an important role in homeland security. Instead, military leaders are very clear that their forces will protect the homeland, but will play only a *supporting* role to civil agencies in homeland security. As defined by the DoD, the critical distinction between the two terms lies in whether the DoD acts in support of policy – homeland *security* – or takes the lead – homeland *defence*. The US military chain of command continues to run through DoD – not the Department of Homeland Security – to the president as commander-in-chief. The secretary of homeland security may, however, arrange with the secretary of defence for military support. The Pentagon might be called upon to take some temporary or bridging actions under provisions of the *Federal Response*

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[65]   Guam and American Samoa; the Commonwealth of Northern Mariana Islands; the Freely Associated States under the Compacts of Free Association, which include the Federated States of Micronesia, the Republic of the Marshall Islands, and the Republic of Palau; and the following possessions: Wake, Midway, Johnston, Baker, Howland and Jarvis Island, Palmyra Atoll, and Kingman Reef.

Plan, which sets out functional responsibilities and federal support for consequence management if state and local providers are overwhelmed, but there are very few scenarios in which the military will take the lead at home. Many cite the Posse Comitatus Act, which prohibits the military from participating actively in the execution or enforcement of civilian legal matters, as a legal rationale for limiting the military role in domestic operations.[66] These provisions, however, do not restrict the military from taking a supporting role in domestic operations, and enable direct involvement under certain circumstances. More important than legal restraints is the reluctance by the military itself to become involved in domestic roles. State and local governments might submit a number of requests for military support at home, listed under the rubric of Military Assistance to Civil Authorities, including immediate actions, support to law enforcement, assistance for civil disturbances, and consequence management – for example, from a high yield explosive attack or from an attack that is chemical, biological, radiological or nuclear in nature. The US military does not lack experience conducting civil-military operations,[67] but it does lack enthusiasm for such chores. There are both bureaucratic and cultural issues underlying military hesitation to become involved in civil affairs. For generations, American war fighters have met responsibility for national security through projection of power – by taking the battle to the enemy. The military in general stayed out of the domestic sphere, leaving police forces and federal agencies such as the FBI and the Bureau of Alcohol, Tobacco and Firearms to keep order at home. The external-internal division of labour has been a defining feature of the US civil-military contract, strengthened since the post-Vietnam termination of the draft reshaping the armed services as professional volunteer forces, supplemented by a large volunteer reserve. The civilian realm provides funding for military programs, technological innovations for battlespace advantages, and moral support to the armed forces; the military realm provides its expertise in the science of violence and the art of strategy.

For all its wealth and a budget of more than $ 400 billion, the Pentagon lacks the resources to achieve the goal of victory in two simultaneous medium regional conflicts (MRC) abroad. Recognizing this, the *Quadrennial Defence Review* shifted to an approach based on capabilities rather than threat. This strategy calls on the military to fight overlapping conflicts in a win-hold-win approach rather than simultaneous victory. From the military perspective, the homeland constitutes a third MRC. The military's preferred approach to take the battle to the enemy – the 'away game' – thus competes for resources with the 'home game' against terror. The balance between home and away priorities is of special concern to the National Guard, given the Guard's dual state and federal roles. State governors view the National Guard as a

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[66] "Whoever, except in cases and under circumstances expressly authorized by the Constitution or Act of Congress, <u>wilfully</u> uses any part of the Army or the Air Force as a posse comitatus or otherwise to execute the laws shall be fined under this title or imprisoned not more than two years, or both". Title 18, US Code, Section 1385.

[67] Counter drug operations and riot relief, disaster relief after hurricanes, and management of immigration crises – like housing Cuban émigrés at Guantanamo Bay, or civil affairs responsibilities which have been prominent in unilateral interventions as in Panama, the Balkans, and numerous humanitarian missions abroad.

scarce resource for homeland security and other military aid to civil authority. The federal use of the Guard abroad takes these important assets from the states. Ever since the beginning of 'Operation Iraqi Freedom', mobilization for the war left a number of states without sufficient resources as they sought to deal with natural disasters. In addition, the home and away game trade-off is exacerbated by demographics of the Guard and reserve. Many who serve in the Guard or reserve are police officers, firefighters and nurses in their civilian lives, hence constitute the front line in homeland security challenges such as consequence management.[68]

All these issues are to a degree viewed and solved differently in Europe. European countries have been executing homeland security missions for decades; even though the mission set does not find expression in the way it does in the US. Europe's postwar security experience until the end of the Cold War focused on sovereignty defence, which today is of declining importance. Since most European countries do not see themselves threatened by external powers, they have reduced territorial defence. Germany, for example, has promulgated a security doctrine that makes clear that the defence of German territory is no longer the highest priority for the Bundeswehr: defence of the homeland must begin abroad.[69] Moreover, as a consequence of the downgrading of territorial sovereignty defence, the mission is generally no longer performed by active-duty forces. Instead, in many instances, it has been relegated to a reserve force mission. However, at the same time, there has been a general reduction also in reserve forces in most European countries, even in those that are reliant on a militia system, such as Finland, Austria, and Switzerland.

Most European countries retain a residual air defence capability, and some continue to buy aircraft suited to this mission, but, as with territorial defence, this is being deemphasized or, in some instances, compensated with bilateral agreements allowing the air forces of neighboring countries to operate in the sovereign airspace of the others.[70] At the same time, there has been a renaissance in interest in missile defence, and in cooperative ventures in ballistic missile defence, as European countries begin to recognize the vulnerability to missile attack and witness the determination of the US to proceed with the deployment of a missile defence system.[71]

Differences are also apparent with regard to the defence of space and cyber-systems, and the respective division of labour. In the US clearly the province of DoD, space and cyber-defence is not yet even an issue in most European security discussions. While this may be partly due to the relative paucity of European military space systems, this cannot account for the approach to cyber-systems, information and computer network operations. In Europe, defence of cyber-systems generally remains

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[68]   Davis, Jingle, "Call-ups Sap Homeland Security Strength; Safety Agencies Lose Workers as Reservists Go on Active Duty", *The Atlanta Journal and Constitution*, 12 March 2003, p. 6A.

[69]   Bundesministerium für Verteidigung, *Defense Policy Guidelines*, May 2003, p. 4.

[70]   Switzerland, for example, has concluded such agreements with the neighboring air forces of France, Germany, Austria, and Italy.

[71]   Taverna, Michael A., "Fresh Look at BMD: Hostility to US' Iraq Policy Doesn't Mean Europe Isn't Worried About Weapons of Mass Destruction", *Aviation Week*, 31 March 2003, pp. 54-55.

the bailiwick of law enforcement agencies. If at all, only few ministries of defence are acquiring convincing capabilities for conducting information and computer network operations.

Different approaches exist also in the domain of critical infrastructure protection. European security and defence forces have long experience in providing security for key government and other installations. And Europe too has critical but highly vulnerable systems upon which modern states rely in order to function. Since these systems have become more vulnerable even as they have gained in efficiency due to automation and electronic data management, they offer tempting targets for terrorists. The main difference in the approach to critical infrastructure protection is that the range of potential targets is considerably larger in the US concept than in most European countries. Moreover, the US distinguishes between *national critical infrastructure* and *defence critical infrastructure*. The latter includes information assets and power-projection capabilities and assets. Critical information assets are command and control networks, defence computer networks, and intelligence, surveillance, and reconnaissance assets. Power projection assets include mobilization facilities such as seaports and airports, military transportation assets, and certain strategic military installations. In the US, *national critical infrastructure* includes: agricultural and food systems; financial and banking systems; transportation systems; water supplies; vital human services; and power systems. While most European countries recognize the importance and vulnerability of these assets, only few have approached the problem comprehensively. In Europe, responsibility for the protection of critical infrastructure is often divided between several ministries and agencies, with many instances of overlapping jurisdiction.

An additional difference is that there is little discernable effort in Europe to address continuity of government and continuity of operations, most likely due to the failure on the part of many European governments to recognize the potential of a catastrophic terrorist threat. As a consequence, many governments seem to have concluded that the requirement to maintain such a capability is not needed at present.

Defence Support of Civil Authorities

In the US, defence support includes federal military forces, DoD's career civilian and contractor personnel, and DoD agency and component assets for immediate response; military support to civilian law enforcement agencies; military assistance for civil disturbances; support for domestic counterterrorism operations; sensitive support operations; counter drug operational support; terrorism consequence management; and military support to civil authorities,[72] which all fall under the category of *Military Assistance to Civil Authorities* (MACA), and always in a supporting role.[73] DoD's role

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[72] Support for Civil Disasters, Military Cooperation with Civil Agencies, and Response under Other Authorities for oil or hazardous material spills, radiological emergencies or incidents, emergency water requirements, response to flooding, forest fire emergencies, mass immigration, and transportation support.

[73] Department of Defense Directives 3025.1; 3025.12; and 3025.15.

with respect to military assistance to law enforcement authority and military assistance for civil disturbances can be considered only in extraordinary contexts, with legal and administrative hurdles limiting the role that US forces may play.

Europe's experience with missions involving defence support to civil authorities is much richer, in the sense that the range of operations is broader and the restrictions less definitive. Most European countries do not categorize their operations in the same manner, and their doctrines are generally not as definitive.[74] Many countries, such as France and Italy, do assign military forces specific authority to support civil authority but lack a well-developed approach with reference to specific mission areas. In most countries, domestic use of the armed forces is not always considered a last resort; rather, their employment is often considered a matter of course. A number of armed forces have responsibilities that directly entail support of civilian authorities in times of disaster. Much of this is due to the highly centralized nature of most European states. Even those with a federal structure lack the kind of forces found in the US National Guard structure. Moreover, there is a great deal of precedence to draw upon: military forces have been asked so often to provide support to civilian authorities that their support is taken as a given.

Another difference is that in Europe, the authority to order forces to support civilians is generally much more straightforward. Unlike the US, where presidential authority is required for the employment of active-duty forces and for National Guard contingents domestically, European countries generally have much simpler requirements, with delegated authority. Most armed forces can be engaged in these tasks on the authority of the defence minister, rather than the president or prime minister. Moreover, in Europe, there are no legal hindrances like the US Posse Comitatus Act. National laws either make no reference to domestic use of military forces or contain just generalized preconditions on their employment. Only Germany has much more formal proscriptions on the use of military forces domestically. But even there, the air force is allowed to provide defence against aircraft used by terrorists.

Disaster relief and special events support are routinely considered part of the military's mission. Thus in Europe, it is common to find military units supporting international events such as sports and cultural events, large exhibition or even fairs. Support to civilian law enforcement is more routine as European armed forces generally have much greater latitude to engage in such activities. One particular area in which forces routinely execute missions is that of essential services augmentation: the provision of services deemed essential during periods of disruption, such as natural disasters, terror attacks, and labour strikes. Examples include firefighting services and mass transport services during labour disputes, as has been regularly the case in France. Military forces have stepped in to supplement, or even supplant, civilian services in these vital areas.

Another area in which armed forces are often employed is the support of civilian border security forces. In countries that lack fully capable border guard forces,

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[74] There are exceptions as in the UK where a similar range of categories exists: (1) military aid to civil power, (2) military aid to other government departments, and (3) military aid to the civil community. These categories do not, however, directly parallel those of the US.

such as Austria, the military carry out a major portion of the border security effort. In Switzerland, the border guard corps is reinforced on a regular basis with military security personnel and reconnaissance assets. While this may be a major drain on military resources, employment of the armed forces in this manner has proven popular and is seen as a cost-effective solution to the problem. Also defence support during disturbances is generally uncontested. Most European countries even expect that the military will play a key role, as did the forces in Germany and Austria in response to the floods of 2002. One difference in Europe is the engagement of active-duty forces for this purpose, as opposed to the use of National Guard and reserve components in the US. In responding to civil disorder, the European approach is different only in so far as Europe has had little recent experience with large-scale disturbances. Most instances of civil disorder have been of a size that has been within the capabilities of the national and paramilitary police forces to manage.

Forces for Homeland Security Missions

Unlike the US, with its federal structure and decentralized law enforcement responsibilities, European governments generally have more options at their disposal for carrying out homeland security tasks. In addition to military forces, there are many different kinds of police forces that have homeland security responsibilities. European countries have long employed their active-duty and reserve forces in executing homeland security missions. Most states still maintain large numbers of military formations on their home territory. Compared to the US, European countries have a higher density of armed forces relative to population. Since many European countries have yet to undertake serious efforts at transformation, there are enough legacy military forces available for such employment. Many of these, such as light infantry forces, are well suited to these tasks; others, such as armored formations, are clearly less well-adapted to the range of missions, though this does not normally prohibit their employment when necessary.

In majority, European countries rely on their active force structure to carry out homeland defence and civil support missions. Pending major modernization and transformation efforts, these forces are seen as available; indeed, in some instances, these roles are sought as a basis for continuing justification of force levels. Since many European countries have disbanded large portions of their reserves, citing the lack of external threat as a justification, ever less of these missions are assigned to reserve forces. As a consequence, there is a lack of a surge potential in the event of a catastrophic terrorist attack. Germany, for example, has disbanded its home defence brigades after the end of the Cold War. They, like many other reserve and militia organizations, would be prime candidates for homeland security missions, particularly in the task areas of homeland defence and military support in emergencies.

One particular difference to the US is that many European countries have specialized police forces capable of a broad range of homeland security functions. Some countries maintain paramilitary police forces, which have long experience in carrying out tasks associated with combating terrorism, such as infrastructure protection and special event security, as well as having principal responsibility for

domestic counterterrorism operations. Though Belgium disbanded its *Rijkswacht Gendarmerie* forces in 2001, and Austria recently fused their *Bundesgendarmerie* with the police, forces like France's *Gendarmerie Nationale*, Italy's *Carabinieri*, Spain's *Guardia Civil*, the Netherland's *Koninklijke Marechaussee*, Portugal's *Guarda Nacional Republicana*, Turkey's *Jandarma*, and Romania's *Jandarmeria* represent force models that, in many respects, are nearly ideal for homeland security missions: highly mobile, well-armed and equipped, and well versed in law enforcement and public security roles. These forces are also quite numerous: in some instances, notably in France, Italy and Portugal, they rival the active-duty army force in size. In many cases, these paramilitary forces, while nominally part of the ministry of defence, work daily with the ministries of the interior and justice in carrying out general law enforcement and criminal investigation functions, predominantly in rural areas. Thus, they are well informed of the local security situation and can often detect changes, hence can also produce the kind of intelligence so useful in homeland security missions.

In addition to these paramilitary police forces, different kinds of police forces also carry out homeland security tasks. Unlike the US, many European countries have national police forces, in addition to municipal and local police forces. Often, these national police forces have small, highly specialized units that are responsible for domestic counterterrorism operations. Moreover, there is a range of special police forces to be found in several countries with tasks that may include homeland security functions. Representative of these special police forces are the French *Compagnies Républicaines de Sécurité* and the specialized units under control of the *Groupement Spéciale d'Intervention de la Gendarmerie Nationale* (GSIGN), the Italian *Guardia di Finanza*, the German *Bundespolizei* – until recently the *Bundesgrenzschutz*, and the *Grupo Especial de Operaciones* of the Spanish National Police. The *Compagnies Républicaines de Sécurité* function as the principal reserve of the national police force, and are frequently employed in special event security tasks and critical infrastructure protection while the *GSIGN* is the home of French counterterrorist units. The *Guardia di Finanza* is a special Italian police force under the Ministry of Economy with a military structure, and is part both of the armed forces and public forces. It has homeland security tasks in addition to its primary function of reinforcing border security. The famous *GSG 9* of the German Federal Police is the principal counterterrorism unit in Germany with specialized sub groups for maritime and airborne counterterrorism. And the *Grupo Especial de Operaciones* is the counterterrorism unit of Spanish National Police.

Intelligence

Protecting the US against the full range of 21st century threats requires the intelligence community to restore its human intelligence capabilities, reprioritize intelligence collection to address probable homeland defence threats, and continue to invest in intelligence, reconnaissance, and surveillance sensor capabilities. DoD is providing the homeland defence and civil support capabilities necessary to support implementation of the *National Security Strategy*, the *National Strategy for Homeland Security*, the

National Defence Strategy, and the *Strategy for Homeland Defence and Civil Support* by developing *core capabilities* – particularly capabilities for achieving maximum awareness of threats.[75] The intelligence community is adjusting to the changing strategic landscape and the new threats to meet the nation's homeland security needs. The establishment of a *National Intelligence Director*, the *National Counterterrorism Center*, the *Department of Homeland Security's Information Analysis and Infrastructure Protection Directorate*, and the DoD's *Joint Intelligence Task Force for Combating Terrorism* exemplifies this shift.[76]

Actionable intelligence is the most critical resource to the homeland security mission. Ensured access to any needed mission-related intelligence capability and coordination of all intelligence efforts in a particular mission are key issues to be solved. Achieving a unified coordinated effort will require innovative methods, consistent with law and regulation, to overcome the existing barriers, made public by congressional investigations of 9/11, to the provision of actionable intelligence. The future will tell whether this will soon be achieved in the US with the newly appointed Director of National Intelligence. This is much easier in Europe, not only because Europe has considerable experience in intelligence sharing as part of counterterrorism efforts, but because there are much fewer intelligence agencies to coordinate than in the US. A good example is the intelligence system existing in France, where the Secrétariat Général de la Défense Nationale is coordinating the efforts of the judicial and executive branches, and where interagency coordination is beginning in domestic security matters.

Conclusions

There are different approaches possible for the division of labour, as the differences in the organization of the fight against terrorism in the US and in Europe show. The US is grappling with the huge challenge of adapting its policies and institutions to deal with the threat of *catastrophic* terrorism. European countries have faced a variety of terrorist threats over the past decades and have developed a range of responses and specialized organizations. Like the US, they now also face the possibility of *catastrophic acts of terrorism*. They thus must adapt their institutions and polices developed for earlier terror threats to these new ones in a much more comprehensive way. Europe's defence and security sector forces have a significant stock of operational experience in homeland security mission. Moreover, Europe has developed organizations, such as paramilitary police forces, that can be of enormous utility, not only in homeland defence missions, but also for the entire range of stabilization, reconstruction and peace support missions that the US now confronts abroad. The institutional, organizational,

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[75] With 4 *core capabilities*: (1) capable and agile intelligence architecture; (2) collect, analyze, and understand potential threats; (3) detection, identification, and tracking of emerging threats in all operational domains; and (4) shared situational awareness within DoD and with domestic and foreign partners.

[76] *Strategy for Homeland Defense and Civil Support.* Department of Defense, Washington D.C., June 2005, pp. 20-24.

and doctrinal approaches that the US and European countries have developed can form the basis for developing norms and procedures that may work well as the terrorist threat evolves. In particular, the emerging analysis of the appropriate roles for *defence* and *security sector forces* in *homeland security* can lead to the development of best practices in securing and defending the homeland.

Chapter 2

Democratic Control of Defence Activities

Dr. Hans Born

Introduction

Today, increasing challenges face democracies as the goals of modern security policy widen. Beyond the traditional tasks of protecting independence and territorial integrity, an increasing focus is made on multilateral action in support of crisis management, the promotion of stability and combating terrorism.[1] Fundamental considerations must be taken into account for the effective democratic control of activities within the defence sector. In the context of this chapter, democratic accountability is taken to mean that those who have the responsibility or authority to decide upon and to implement security policy are accountable to the elected representatives or directly to the people.[2] Furthermore, as a cornerstone of any democratic state there must also be oversight and control of the defence activities by parliament. Such defence activities include, for the purposes of this paper, the activities of the military, police, border guards, paramilitary units, intelligence services and private security organisations. Parliaments have to develop a comprehensive security policy as well as keeping track of all such security sector organisations. Parliamentary oversight is only complete when it oversees the five major aspects of these agencies, that is, the policies, personnel, finances, operations and procurement of equipment and weapons systems.

In Europe, the issue of democratic and parliamentary control of defence activities is undergoing a renaissance.[3] There are a number of reasons why the topic is

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[1] See, W. Van Eekelen, 'Democratic Control of Armed Forces: The National and International Parliamentary Dimension', in H. Born, P. Fluri, and S. Lunn (eds.), *Oversight and Guidance: The Relevance of Parliamentary Oversight for the Security Sector and its Reform,* DCAF Document No. 4, 2003.

[2] See, H. Born, 'Democratic Control of the Military in the US, France, Sweden and Switzerland', in K. von Wogau (ed.), *European Defence for the 21st Century*, 2003. Accountability deals mainly with three issues: money, activities and results with the two former dealing with the process of governmental activity and the latter with its outcome. See, for example, R. D Behn, *Rethinking Democratic Accountability*. Washington DC: The Brookings Institution, 2001.

[3] See further, H. Born, K. Haltiner, M. Malesic (eds.), *Renaissance of Democratic Control of Armed Forces in Contemporary Societies*, Nomos Vergasgesellschaft, Baden-Baden, 2004.

currently on the political and scientific agenda of many European countries: firstly, with the abolition of military conscription in several European countries (e.g. the Netherlands, Belgium, France, Hungary, Italy, Spain, Portugal) a critical debate has been raised on the democratic control of the armed forces as many express fear that an all-volunteer force is more difficult to control democratically than a conscript army. Secondly, over the last decade there has been a general downsizing of the armed forces, yet there has been an expansion in the tasks expected of them. Such demands on budget and personnel strain political-military relations. Thirdly, with increasing international military activity, the democratic and parliamentary control of international military cooperation and institutions is also becoming increasingly relevant. This is especially true for the smaller member states of the EU and NATO. Furthermore, 'democratic and civilian control' as defined by international organisations such as NATO and the OSCE, calls for the reforming of political-military and civilian-military relations in accordance with democratic principles as a requirement for integration or membership. This is particularly applicable to post -communist countries in Central and Eastern Europe who have had to restyle political-military relations according to democratic principles. Before reforming the security sector, transition societies adopted new constitutions, gave powers to legislatures and installed civilian ministerial control over the military. Hence, the democratic (and civilian) control of defence activities is conceived as necessary for institution-building, good governance and security at both the international and national level. This chapter firstly dwells on those principles of democratic control as enunciated at the international levels and then addresses mechanisms and principles of democratic control at the national level.

Democratic Control as an Established International Norm

With the changing security environment throughout the world, it is imperative that the democratic control exercised over defence activities in each state is clearly defined and undertaken. At the international level, the main aim must be to create a climate of stability in which economic development and cooperation can prosper,[4] and where peace and stability can reign. With these objectives in mind, a number of norms and standards have been defined by international bodies which establish parameters as to how defence policy should be conducted within the growing family of international states. Although generally such definitions apply to public governance in general, a few specifically mention the security sector (see Table 1 below).

Within the UN system specifically, identification has been made of the importance of 'democratising security to prevent conflict and build peace' (UNDP *Human Development Report 2002*). Referring to the democratic peace thesis, which posits that democracies do not go to war against each other, the UN stresses the crucial role of democratic control of the military, police and other security forces for human

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[4]   W. Van Eekelen, 'Democratic Control of Armed Forces: The National and International Parliamentary Dimension', in Born *et al,* 2003, see note 1.

development and human security; furthermore, it lays out a set of principles for democratic governance in the security sector.[5]

Table 1: **Norms and Standards of Democratic Governance of the Security Sector[6]**

Organisation	Norm/Standard	Source
UNCHR	'Ensuring that the military remains accountable to the democratically elected civilian government'	Resolution 2000/47 (2000)
UN General Assembly	'Ensuring that the military remains accountable to the democratically elected civilian government'	Resolution 55/96 (2000)
UNDP	Democratic civil control of the military, police and other security forces (report enumerates principles of democratic governance in the security sector)	Human Development Report (2002)
OSCE	'The democratic political control of military, paramilitary and internal security forces as well as of intelligence services and the police' (specified by a detailed set of provisions)	Code of Conduct on Politico-Military Aspects of Security (1994)
Council of Europe (Parliamentary Assembly)	'Control of internal security services in Council of Europe member States'	Recommendation 1402 (1999)
NATO Partnership for Peace (PfP)	'Ensuring democratic control of defence forces' (one of five objectives, specified in the PfP Programme)	Framework Document (1994)
EU (European Parliament)	Specifying the Copenhagen Criteria for accession to include: 'legal accountability of police,	Agenda 2000, § 9

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5   UNDP, *Human Development Report 2002*, pp. 85-100.
6   Source: H. Hänggi and T. H. Winkler (eds.), *Challenges of Security Sector Governance,* LIT, Münster, October 2003, p. 14.

	military and secret services […] and acceptance of the principle of conscientious objection to military service'	
Summit of the Americas	'The constitutional subordination of armed forces and security forces to the legally constituted authorities of our states is fundamental to democracy'	Quebec Plan of Action (2001)
Community of Democracies	'That civilian, democratic control over the military be established and preserved'	Warsaw Declaration (2000)
Club of Madrid	'Civilian control over the military and defence policy, and a clear separation of the armed forces from police bodies and functions'	Closing Statement (2001)

The democratic control of defence activities has also been articulated as a political standard by a number of regional organisations and fora such as the OSCE, NATO, EU, the Council of Europe and the Interamerican Summit process. NATO's Partnership for Peace (PfP) programme and the Council of Europe made 'democratic control of defence forces' a *sine qua non* of membership.[7] The European Parliament, on the occasion of its endorsement of the Copenhagen Criteria on accession, specified in the 'Agenda 2000' resolution that the candidate countries are required to establish 'legal accountability of police, military and secret services […] and acceptance of the principle of conscientious objection to military service'. In the case of Turkey, the EU had insisted that it would not open talks on accession until Turkey met the 'Copenhagen criteria' including the political reforms required, particularly the exclusion of the military from interference in political decision.[8] In June 2005, a Recommendation was tabled before the Council of Europe Parliamentary Assembly on the 'Democratic oversight of the security sector in member states' which calls for democratic control specifically of police, security services, and border guards.[9]

The OSCE has gone the furthest so far with the adoption in 1994 of the Code of Conduct on Politico-Military Aspects of Security, which contains the most innovative provisions on 'the democratic political control of military, paramilitary and

[7]   *Partnership For Peace Framework Document*, 10 January 1994, available at http://www.nato.int/docu/basictxt/b940110b.htm; Council of Europe's Report, 12 June 2002, AS/POL (2002) 07REV.2, point 34 (concerning Serbia and Montenegro's membership application).

[8]   See also 'EU Backs Turkish Curbs on Power of Military', *Financial Times*, 30 July 2003.

[9]   This Motion explicitly refers to the work of the Geneva Centre for the Democratic Control of Armed Forces. See Parliamentary Assembly of the Council of Europe, Draft Recommendation (AS/Pol(2005)15 of 22 April 2005).

internal security forces as well as intelligence services and the police'.[10] This 'politically binding' instrument is the only document which elaborates on the substance of democratic governance of the security sector. In its sections VII and VIII, it establishes the basic components of democratic control of defence activities, which include:

- The primacy at all times of democratic constitutional civilian power over military power;
- The subjection of armed forces to the norms and prescriptions of international humanitarian law;
- The respect of the human rights and fundamental freedoms of the armed forces personnel; and,
- The commensurability of the domestic use of force with the needs of enforcement, and prohibition of the use of force aimed at restricting peaceful and lawful exercise of human rights or at depriving people of their individual or collective identity.[11]

Although no clear-cut definition or single model of democratic control of defence activities can be exemplified, a set of general principles and 'best practices' can be identified. Based on a document published in 2000 by the UK Department for International Development, the UN *Human Development Report 2002* summarises the key principles of democratic governance of defence activities as follows:

- Ultimate authority on key security matters must rest with elected representatives;
- Security organisations should operate in accordance with international and constitutional law and respect for human rights;
- Information about security planning and resources must be widely available, both within government and to the public. Security must be managed using a comprehensive, disciplined approach. This means that security forces should be subject to the same principles of public sector management as other parts of government, with adjustments for confidentiality appropriate to national security;
- Civil-military relations must be based on a well-articulated hierarchy of authority between civil authorities and defence forces, on the mutual rights and obligations of civil authorities and defence forces, and on a relationship with civil society based on transparency and respect for human rights;
- Civil authorities need to have the capacity to exercise political control over the

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[10]   Quoted from Y.-V. Ghébali, *The OSCE Code of Conduct on Politico-Military Aspects of Security (3 December 1994): A Paragraph-by-Paragraph Commentary on Sections VII and VIII (Democratic Control and Use of Armed Forces)*, DCAF Document No. 3, Geneva Centre for the Democratic Control of Armed Forces, Geneva, March 2003, p. 17.

[11]   See also Ghébali, *The OSCE Code of Conduct*.

operations and financing of security forces;

- Civil society must have the means and capacity to monitor security forces and provide constructive input into the political debate on security policy;
- Security personnel must be trained to discharge their duty professionally and should reflect the diversity of their societies – including women and minorities; and,
- Policy-makers must place a high priority on fostering regional and local peace.[12]

These key principles of democratic control, although complex, are obtainable and will contribute as confidence-building measures both to national and international stability. However, as increasingly decisions regarding defence activities, including the use of force, are being made by international institutions, it is up to national parliamentary bodies to provide oversight of the governments of each member state. The role of parliament is particularly essential to ensure the democratic accountability of national armed forces in peace support operations (PSO) under auspices of the UN, NATO, EU and *ad hoc* coalitions.[13] The powers of parliament must remain the central locus of accountability for any governmental decision-making concerning defence activities, whether under purely national or international auspices.

The Role of Parliament in Defence Policy

As termed by Winston Churchill, parliament is the workshop of democracy and it is within that workshop that the limits to, the powers necessary, and the control of activities of the state, including defence activities, are determined. While parliaments may range from the ornamental to significant governing partners, they have some common characteristics, which include three basic functions that they perform: representing the people, making (or shaping) laws, and exercising oversight. Parliaments articulate the wishes of the people by drafting new laws and overseeing the proper execution of those policies by the government. In short: the parliament is the mediator between government[14] and the people.

Though we take it for granted that modern government must be democratic in the sense of deriving its authority directly or indirectly from the people, states differ in shaping legislative-executive relations. Furthermore, there are no universal standards or

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[12] UNDP, *Human Development Report 2002*, p. 90. See also UK Department for International Development, *Security Sector Reform and the Management of Military Expenditure*, 2004, p. 46.

[13] The term peace support operations is used as a generic term for all kinds of peace keeping and enforcing operations. See H. Born, and H. Hänggi, 'Governing the Use of Force under International Auspices: Deficits in Parliamentary Accountability', in *SIPRI Yearbook, Armaments, Disarmament and International Security,* Oxford University Press, 2005.

[14] 'Government' has a different meaning in different countries. In this article, government refers to the top political level, being the president, prime minister and ministers as well as the departments headed by those ministers.

best practices for parliamentary oversight given that accepted practices, legal procedures and parliamentary structures in one established democracy may be unthinkable in another one. Although there is no single set of norms for civil-military relations, there is a general agreement that democracies adhere to principles of democratic civil-military relations. Parliamentary oversight of the security sector is a *sine qua non* condition for democracy.

Parliamentary oversight is primarily dependant on three factors: (1) The legal authority of parliament to hold the government to account; (2) The ability to exercise oversight and (3) whether parliamentarians have a critical attitude to hold the government accountable. Together, these three factors form the Triple A-Criterion of effective parliamentary oversight (Authority, Ability, Attitude).

The first factor, the legal authority or power to exercise oversight, is based on the constitutional and legal framework of a country. The ultimate power of parliament is to send the government home (no-confidence mechanism), to block budgets or stop or delay the legislation of new laws.[15] Generally speaking, the no-confidence vote is characteristically for parliamentary political systems only, as in presidential systems, in most cases, the president is elected by the people directly and not by parliament. From these powers (and the credibility to use this power), derive all other powers *vis-à-vis* the government. In more specific terms, with regards to the defence sector, we can identify the following parliamentary defence oversight powers:

1. General powers: these include powers which are in principle applicable to all fields of government. In most countries these powers include: the right to initiate or to amend laws, to raise questions, to summon members of the executive and their staff to testify, to summon members of civil society, access to classified information, the right to carry out parliamentary inquiries and the right to hold hearings.
2. Budget control: the right to allocate and amend defence budget funds – on the level of programmes, projects and separate line-items; the right to approve or disapprove any supplementary defence budget proposals (during the fiscal year) and to have access to all relevant defence budget documents.
3. Peace support operations: the right to dis/approve to send troops abroad, the mandate, the budget, risks of military personnel involved, rules of engagement, command/control, duration of the mission and the right to visit troops on missions abroad.
4. Defence procurement: involvement of the parliament in the government's decision concerning contracts, specifying needs for new equipment, selection of manufacturers and assessing offers for compensation and off-set.
5. Security Policy and planning documents: the right to amend or to dis/approve the Security Policy concept, defence concept, crisis management concept, force structure/planning and the military strategy.

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[15] M. Laver, and K. Shepsle, *Government Accountability in Parliamentary Democracy,* in A. Przeworski, S. Stokes, and B. Manin, 1999, op. cit. p. 281.

6.   <u>Military personnel:</u> the power of the parliament to dis/approve the defence human resources management plan, maximum number of personnel employed by the MoD and military, approval of high ranking military commanders and the right to be consulted by the Defence Minister about high ranking appointments.

Together, these control instruments cover the most important aspects of any military, which is planning, operations, money, people, equipment and policy.

As mentioned before, in addition to these powers, parliamentary oversight is also dependant on the <u>willingness</u> and the <u>ability</u> to hold the executive to account. The 'willingness' refers to the duty of parliaments to hold governments accountable, in spite of partisan/coalition politics. Parliament's 'ability' concerns parliamentary staff, budget, library and infrastructure – in short, the parliamentary resources.

Parliamentary Oversight Powers

The question is to what extend parliaments do have the oversight powers as described in the previous section. For the purpose of this chapter, sixteen democracies in the Euro-Atlantic area have been selected to illustrate the varying extent, powers and capacities of parliamentary oversight bodies in the selected countries. The countries selected are examples of both presidential and parliamentary democratic structures, from both West and Eastern Europe as well as Canada and the United States (see Table 2 below).

The data is derived from comprehensive research on parliamentary oversight in NATO members and associated states. This research data is the product of a joint activity, conducted in 2002,[16] of the Geneva Centre for the Democratic Control of Armed Forces (DCAF) in Geneva and the NATO Parliamentary Assembly in Brussels.[17] The data has been provided either by members of parliament or the staff of the parliamentary defence committee (or the equivalent). The data shows how parliamentarians perceive their powers of oversight.

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[16]   The data provided for Romania was collected in June 2005. Many thanks to Ms. Teodora Fuior, Advisor to the Committee for Defence, Public Order and National Security, Deputies Chamber, Romania.

[17]   Special thanks to Dr. Wim F. van Eekelen, Member of the Netherlands' Senate and Vice-President of NATO PA and the excellent support of NATO PA staff as well as Members of Parliament and Staff of the parliamentary committees of the US Congress, French, Swiss and Swedish Parliament.

Table 2: Characteristics of Political Systems and Parliamentary Defence Committees in Selected States

	Political System	Commander in Chief	Mandatory Military Service?
Canada	Parliamentary	Parliament	O
Czech Republic	Parliamentary	President	O
Denmark	Parliamentary Monarchy	Parliament	X
France	Presidential	President	O
Germany	Presidential	President	X
Hungary	Parliamentary	President	O
Macedonia	Parliamentary	President	X
Netherlands	Parliamentary	Parliament	O
Poland	Presidential	President	X
Romania	Presidential	President	X
Spain	Parliamentary Monarchy	Monarch	O
Sweden	Parliamentary Monarchy	Parliament	X
Switzerland	Plebiscite Parliamentary	Only in war time, elected by parliament	X
Turkey	Parliamentary	Parliament	X
United Kingdom	Westminster Parliamentary	Parliament	O
United States	Presidential	President	O

X: Country has mandatory military service.
O: Country does not have mandatory military service.

Source: DCAF/NATO PA research 2002.

Table 2 shows the general characteristics of the sample of selected states, which include six presidential democracies (France, Germany Poland, Romania, and the

United States) and six parliamentary democracies (Canada, Czech Republic, Hungary, Macedonia, the Netherlands, and Turkey). Three parliamentary monarchies have been analysed (Denmark, Spain and Sweden), although the monarch plays a largely ceremonial role in Denmark and Sweden. For that reason, the commander in chief of the military has been identified as the parliament rather than the constitutional monarch. Switzerland is described as having a 'plebiscite parliamentary system' given that parliamentary control is largely maintained through referendums.

With regards to the political system, the comparison clarifies that in presidential democracies the control of the armed forces is with the president whereas in parliamentary democracies the leadership is diffused over more members of the cabinet (e.g. the prime minister and the minister of defence), or, as is generally found in the Eastern European states, as 'new' parliamentary democracies, the chief of state and commander in chief is a position held by the president, for example in the Czech Republic, Hungary and Macedonia.

In spite of the power vested in the president, presidential systems do not necessarily have weak parliaments when it comes to defence policy. Due to the system of separation of powers, the US Congress has a strong position vis-à-vis the executive. This is especially so when the opposition has a majority in one or in both Houses; it can then obstruct presidential policy substantially. Additionally, in France, where the president has traditionally far reaching authorities in defence and security issues, he is only powerful when his party is also the ruling party. In case of co-habitation, the parliament can limit the powers of the president. In Sweden, the parliament has a rather strong position, given the last 26 years of minority governments. As minority cabinets are by nature at the mercy of the legislature in parliament, the executive cannot be expected to dominate parliament.[18] Another feature strengthening the position of the head of state in presidential systems is that the president is the Commander-in-Chief. This is the case in France, Poland, and in the US. Notably, as opposed to the other countries, Switzerland does not have a commander-in-chief in peace time.[19] The Swiss military commander in chief is elected by parliament in case of mobilisation of a considerable draft. In times of war, this elected general is granted far reaching powers.[20] Moreover, Art 16 of the Swiss Constitution prohibits for any central ruling power to hold a regular (professional) army (at the federal level), while at the same time allowing cantons to do just that (up to 300 men, especially for police matters). Art 19 of the Constitution stipulates that the federal army consists of 'troops of the cantons'. Therefore, each canton has a minister and ministry of defence.[21] Additionally,

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[18] A. Lijphart, *Patterns of Democracy: Government Forms and Performance in 36 Countries,* Yale University Press, 1999, p. 136.

[19] Additionally, Switzerland does not have a head of state or prime minister, but a ceremonial position of an annually rotating president

[20] K. Haltiner, *Civil-Military Relations: Separation or Concordance? The Case of Switzerland,* paper presented at the conference on 'Redefining Society-Military Relations from Vancouver to Vladivostok', University of Birmingham, UK, 1999, pp. 4-5.

[21] K. Haltiner. op. cit. p. 4.

in Switzerland referenda influence and limit the role of the executive and the legislative.[22]

Parliamentary Defence Committees

All of the 17 countries selected have a parliamentary committee specialised in defence issues with a parliamentary support staff and a budget for carrying out their operations (represented in Table 3). Parliamentary committees are the most powerful organisation of parliamentary work. Such committees enable the carrying out of inquiries of interest to it and to consider issues in detail, a capacity which the unwieldy body of parliament is generally unable to undertake.[23]

Table 3: Organisation and Resources of the Parliamentary Defence Committee

	Members of Parliamentary Defence Committee	Members Reelected	Assisting Staff of the Parliamentary Defence Committee	Chairman Opposition?	Meeting Frequency	Budget of Defence Committee (Euro)
Canada	16	5	3	O	Once a week	-
Czech Republic	19	10	4	X	Twice a month	-
Denmark	17		3	O	Once or twice a month	33,333
France	72	32	11	O	Once a week	130,000
Germany	38	-	8	O	Once a week	

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22 Referenda dealt with issues such as the purchase of F/A 18 fighters (1993), explicit refusal of Swiss nuclear armament, abolishment of the army (1993), allowing peacekeepers to bear arms (2001) etc.

23 W. Van Eekelen, 'Democratic Control of Armed Forces: The National and International Parliamentary Dimension', in Born, *et al*, 2003, p. 72, see note 1.

Hungary	15	10	2	X	Three times a month	4,000
Macedonia	9	0	1	O	Once or twice a month	-
Netherlands	30	15	5	O	Once a week	Approx, 25,000
Poland	18	5	3	O	Three times a month	-
Romania	22	5	6	O	Twice a week	0
Spain	40	12	4	O	Once or twice a month	-
Sweden	17	8	5	X	Twice a week	500,000
Switzerland	25	8	2	O	Less than once or twice a month	-
Turkey	25	10	3	O	Once or twice a month	130,000
United Kingdom	11	2	7	O	More than once a week	-
United States	25	17	50	X	More than once a week	5,800,000

X: Yes
O: No
- :   Not available or not applicable

The difference between the committees depends on the level of means (information and research capacity particularly) and expert support they enjoy.[24] Analysing the Committees of Defence of the selected countries, we notice that the average size is around 25 members but with a relatively large standard error. It goes from relatively small-sized committees in Macedonia (9 members) and the UK (11 members) to very large ones in Spain (40 members), and France (72 members). As regards the committee assisting staff, their size varies from 1 staff member for the Macedonian parliamentary defence committee to 50 staff members working for the US Senate Committee on Armed Services. Staff members usually prepare and organise committee meetings, maintain contacts with government and defence officials, collect information and help interpret government information. Therefore, they are vital for effective committee work and one can assume that more staff generates more support and therefore more effective oversight of defence issues. The same relationship may be assumed between the budget of the defence committee and effective oversight. The greater the budget, the more possibilities are available for undertaking parliamentary inquiries, to organise hearings, and to hire both staff and outside expertise. The US Senate has access to the largest financial resources (5.8 million Euros in 2002) whereas the Hungarian parliamentary defence committee has a budget of just 4,000 Euros. Remarkably, the French Defence Committee has a lower budget than the Swedish Parliamentary Defence Committee, though one might expect the French Committee to oversee a much larger military. However, out of all parliaments studied, the US Senate Committee for Armed Services seems to be the best resourced committee in terms of committee staff and budget.[25]

The frequency of committee meetings is variable. Most of them meet once or twice a month, but in the UK, US, Sweden, Canada, Romania, France, Germany, and Netherlands the Committees meet more often than that. The Swiss Defence Committee meets the least frequently with less than a meeting a month. At the time of the survey, in most of the countries the chairman of the committee is a member of the party in office in the government (except in the Czech Republic, US, Sweden and Hungary). Analysis of the members of the parliamentary committee shows that of the 14 countries who responded to the question whether any members of the parliamentary defence committee are elected for a second term, Macedonia was the only state where no members of the committee where reelected. On average, 38.91 percent of committee members are re-elected following their statutory membership period. The percentage of members re-elected is represented in Table 4 below:

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[24]   W. Van Eekelen, 'Democratic Control of Armed Forces: The National and International Parliamentary Dimension', in Born *et al*, 2003, p. 72, see note 1.

[25]   The data presented on the US case does not take into account that the US Senate Armed Services Committee can avail itself of the Congressional Research Service which employs approximately 800 staff members as well as the Library of Congress staff and resources.

Table 4: Percentage of Members of Parliamentary Defence Committee Reelected

Country	% of Members of Parliamentary Defence Committee Reelected
Canada	31.25
Czech Republic	52.63
Denmark	52.94
France	44.44
Germany	-
Hungary	66.66
Macedonia	0
Netherlands	50
Poland	27.78
Romania	22.73
Spain	30
Sweden	47.06
Switzerland	32
Turkey	40
United Kingdom	18.18
United States	68

General Powers of Parliamentary Oversight

The classification of the 'general powers' of parliament to oversee defence includes the power to initiate legislation on defence issues; to question the minister of defence; to summon military and other civil servants to committee meetings and to testify; and to hold hearings on defence issues. These 'general powers' of parliament are evident in the majority of states analysed.

Table 5: General Powers of Parliament

	To Initiate Legislation on Defence Issues	To Question the Minister of Defence	To Summon Military and other Civil Servants to Committee Meetings and to Testify	To Obtain Documents from the Ministry of Defence and the Military	To Hold Hearings and Inquiries on Defence Issues
Canada	X	X	X	X	X
Czech Republic	X	X	X	X	X
Denmark	X	X	X	X	X
France	X	X	X	X	X
Germany	X	X	X	X	X
Hungary	X	X	X	X	X
Macedonia	X	X	X	X	O
Netherlands	X	X	X	X	X
Poland	X	X	O	X	O
Romania	X	X	X	X	X
Spain	X	X	X	X	X
Sweden	X	X	X	X	X
Switzerland	X	X	X	X	X
Turkey	X	O	X	X	O
United Kingdom	O	X	X	X	X
United States	X	X	X	X	X

X: Parliament possesses the power.
O: Parliament does not possess the power.
- : Not available or not applicable.

Source: DCAF/NATO PA research 2002.

In all selected states (except the UK), parliament has the power to initiate new legislation. Similarly, legislation on defence issues can be amended or rewritten by parliament. The power to design and initiate defence legislation is one of the greatest powers that a parliament can possess to determine the defence policy of the country. By being able to influence where and when new legislation is required, or existing legislation amended, the parliamentarian has the power to oversee, to a degree, the direction of defence policy. With only the exception of Turkey, all parliaments can question the minister of defence. Similarly, the summoning of members of the military and civil servants to parliamentary committee/plenary meetings and to testify is a common legislative power in the selected states (except in Poland). In all states examined, without exception, the parliament is granted the power to obtain documents from the ministry of defence and/or the military. This is an important power that leads to the creation of transparency and accountability of government and military decisions and actions. In the majority of states, parliament is granted the power to conduct inquiries into defence issues and hold hearings on those issues. Of the three parliaments that do not posses these general powers (Macedonia, Poland and Turkey), two of them (Poland and Turkey) deny their parliaments other general powers granted in the majority of states, namely, in Poland the power to summon military and other civil servants to committee meetings and to testify, and in Turkey, the power to question the minister of defence.

Parliament and Budget Control

The power of the purse is at the heart of parliamentary control. Most countries have developed or are developing a systematic approach for evaluation and approval of budget proposals, for example, Planning, Programming, Budgeting and Execution System (PPBES). Basic characteristics of modern government defence budgeting systems include:[26]

- Legality: all expenditure and activities should be in keeping with the law;
- Power of amendment and allocation: parliament should have the right to amend and allocate defence budget funds;
- Transparent defence budgeting: parliament should have access to all necessary documentation to enable transparent decision-making. The final defence budget should be available not only to the parliamentary defence committee, but also the plenary of parliament and the public at large;
- Specificity: The number and descriptions of every budget item should result in a clear overview of government's expenditure. Parliament must be able to control the budget at three levels, that of defence programmes, projects, and line items. Defence programmes are divided into projects which characteristically have a specified end date that mobilise resources within a given budget which can be further grouped into specific line-items.

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[26]   Born *et al*, 2003, pp. 131-132, see note 1.

Table 6: Budget Control of Defence Issues

	Has the Right to Amend and to Allocate Defence Budget Funds	Has Access to all Defence Budget Documents	Control the Defence Budget by Programmes	Control the Defence Budget by Projects	Control the Defence Budget by Line-Items
Czech Republic	X	X	O	O	O
Canada	X	X	-	-	-
Denmark	X	X	X	X	X
France	X	X	X	X	X
Germany	-	X	X	X	X
Hungary	X	X	-	-	-
Macedonia	X	O	-	X	-
Netherlands	X	X	X	X	-
Poland	X	X	X	X	X
Romania	X	X	-	-	X
Spain	-	X	X	X	X
Sweden	X	X	X	X	O
Switzerland	X	X	X	X	O
Turkey	X	X	X	X	X
United Kingdom	O	O	O	O	O
United States	X	X	X	X	X

X: Parliament possesses the power.
O: Parliament does not possess the power.
- : Not available or not applicable.

Source: DCAF/NATO PA research 2002.

Our analysis shows that in almost all of the countries selected the parliament is granted the important power and ability to amend and to allocate defence budget funds (the exception is the United Kingdom whose parliament possesses no budget control power over defence issues). This power is limited in a few states by the inability to control the budget either through its division into programmes, projects or line-items. Namely, the parliament in the Czech Republic has no control over which programmes, projects or line-items the defence budget is to fall under. Although most countries grant parliament access to all defence budget documents, the level of control over the budget varies. In addition to the Czech Republic, both Sweden, Switzerland and the United Kingdom limit their parliaments' ability to control the budget by granting them no control over what is under each line-item. This implies that parliament in those countries cannot reallocate money from one line item to another within the defence budget. However, parliament in three of these four countries (excepting the United Kingdom) can still refuse the defence budget if they reject some items. For example, if they do not agree with the purchase of transport airplanes or other defence expenditures, they can inform the minister of defence that parliament will only accept the budget if these items are deleted. The parliaments with the fullest powers to control the budget of defence matters are those of Denmark, France, Poland, Romania, Turkey and the United States.

Parliament and Peace Support Operations

It is possible to distinguish three important parliamentary powers in the overseeing of peace support operations.[27] The first power of parliamentary oversight is concerned with getting sufficient and accurate information. PSOs are subject to international decision-making at the UN level involving requirements of confidentiality and often have to be decided upon within a short timeframe, not to mention the technicality of the subject-matter.[28] Therefore PSOs are difficult to oversee for national parliamentarians, who often rely on information from the government and global mass media. It is important that parliaments have and make use of their constitutional and legal powers to force the government to provide parliament with all relevant information on PSOs. These powers include the right to question the relevant members of the executive, the right to have them testify under oath, the power to hold an inquiry and hearings, the right to obtain any document belonging to the executive as well as the right to visit the troops abroad. The second group of powers relates to the constitutional or legal powers of parliament to approve or reject PSOs in advance, this power is reflected in Table 7 below. Such a legal provision furnishes the parliament with a very powerful tool and guarantees that the parliament is informed about the involvement of troops deployed abroad in an accurate and timely manner. In addition, a parliament may have the right

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[27] For literature on parliamentary powers, see for example Von Beyme, 2002; Norton, 1998 or Olson, 1994.

[28] Assembly of the WEU (2001), *National Parliamentary Scrutiny of Intervention Abroad by Armed Forces Engaged in International Missions: the Current Position in Law*, Report submitted on behalf of the Committee for Parliamentary and Public Relations by Mrs Troncho, Rapporteur Document A/1762, 4 December.

to debate and assess the most important political issues of peace support operations, namely the mandate, risks involved for troops, rules of engagement, the chain of command as well as the duration of the peace support operation. Though parliaments may not have the ability to decide upon the mandate, rules of engagement and chain of command (as to a large extent, they are decided upon at the UN level), parliaments can take these elements into account when debating and voting on PSOs. The third power of parliamentary oversight is the control of the PSO's budget. As described above, the power of the purse is generally regarded as one of the oldest and most decisive powers of parliament. The power of the purse applies to both the regular yearly defence budget, including PSOs and the power to approve or to reject supplementary defence budgets for PSOs. Supplementary budget approvals are important because PSOs often occur unexpectedly. Even if a parliament lacks the right to approve or reject the government's decision to deploy troops abroad, it can obstruct government policy by rejecting supplementary budget requests. A vote on a supplementary budget request for peace support operations can be regarded as an implicit vote on the government's decision to deploy troops abroad in peace support operations.

Our research findings show that in the US, Germany, Denmark and the Netherlands, parliament is involved in all selected aspects of peace support operations, from approval of the sending of troops abroad, the mandate, budget, duration and operational issues. Arguably, in these countries, the power of parliament in regard to these issues is not so much based on special regulations, but rather on the power of the purse (see Table 6). For example, United States Congressmen can exercise the power of the purse to prevent, condition or indeed to stop US participation in peace missions. However, the US Congress only very rarely uses this power. In the wake of the Vietnam (an 'undeclared' war), in 1973, the US Congress passed the War Powers Act which requires the President to consult with Congress whenever military action is contemplated, to report to Congress whenever armed forces are involved in hostilities abroad and, most important, the Act bars continued deployment of troops unless the Congress gives its consent. If Congress does not consent within 60 days, the President must withdraw the troops within 30 days.[29] Though American presidents complied with this Act, they have refused to recognise any formal obligation to obtain Congressional authorisation for deployment of troops abroad.[30]

In the majority of selected states, parliament has the power to authorise the deployment of troops abroad. In Sweden, for example, in order to comply with the regulations of the Constitution the armed forces can only be sent abroad in accordance with a (special) law that sets out the grounds for such action and with international treaties and commitments.[31]

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[29] 50 U.S.C par. 1542-1544. Available at http://www.yale.edu/lawweb/avalon/warpower.htm

[30] For further information, see the American Civil Liberties Union website: http://www.aclu.org

[31] Swedish Constitution, Chapter 10, Art 9, paras. 1-3.

Table 7: Powers Concerning Peace Support Operations

	Approves Sending Troops Abroad	Mission Mandate	Budget Approval of the Mission	Mission Duration	Operational Issues: Rules of Engagement, Command/Control, Risks Assessment	Parliamentary Right to Visit the Troops on Missions Abroad
Canada	O	O	O	O	O	X
Czech Republic	X	X	X	X	O	X
Denmark	X	X	X	X	X	X
France	O	O	O only *a posteriori*	O	O	X
Germany	X	X	X	X	X	X
Hungary	X	-	X	-	-	-
Macedonia	X	X	X	O	O	X
Netherlands	X	X	X	X	X	X
Poland	X	O	O	O	O	-
Romania	X	O	O	O	O	X
Spain	O	-	X	O	O	X
Sweden	X	X	X	X	O	X
Switzerland	X	O	X	X	O	X
Turkey	X	O	O	O	O	O
United Kingdom	O	X	X	O	O	X
United States	X	X	X	X	X	X

X: Parliament possesses the power.
O: Parliament does not possess the power.
- :   Not available or not applicable.

Source: DCAF/NATO PA research 2002.

It appears, on analysis, that the newly emerging democracies of Romania, Turkey and Poland grant a lesser role, if any, to parliament in the particulars of peace support operations. Parliament is only involved in the initial approval of sending troops abroad. However, this limited control may be taken as directly related to the requirements of conformity with NATO standards. As new NATO member states, participation in NATO operations is not a matter of parliamentary debate. Only Macedonia, Sweden and Switzerland are not NATO members, however, the powers granted to parliament are only statistically significant insofar as that in the three states, parliament approves the budget of the missions yet has no control over the operational issues of the mission.

Hungary is an interesting point in case because the Constitution requires a majority of two-thirds of the votes of the members of parliament (Constitution of the Republic of Hungary, 1949, Article 19 [3] and [6]). Sending troops abroad is one of the few decisions that needs to be based on a qualified majority in parliament. It is also one of the few cases in which the parliamentary opposition has the opportunity to influence government policy, as its cooperation is necessary for reaching the two-thirds majority. Therefore, in the past, domestic issues played an important role and not so much the specific deployment of troops abroad. NATO put Hungary under pressure to change this procedure as it is seemingly not very instrumental if NATO needs Hungary's cooperation in out-of-area operations.[32] However, this will require a change in the constitution, which is a long and complex process, to be approved by a qualified majority in parliament.

In France, the peace support operations are clearly a matter of the executive, in which the parliament plays only a marginal role. In accordance with the French Constitution of 1958, no procedure is provided for prior parliamentary authorisation concerning forces outside of France.[33] Nevertheless, international agreements, among them those involving the deployment of troops abroad, have to be submitted to the parliament.[34] According to a report by the French Parliamentary Defence Committee, during the 1990s, with the exception of the First Gulf War in 1991, the French President did not seek prior parliamentary authorisation for the deployment of troops in Yugoslavia (UNPROFOR, IFOR, and SFOR), in Albania (Operation Alba in 1997) as well as in Kosovo (Allied Force and KFOR since 1999) which were all undertaken by the executive without parliament having any say in the decisions.[35]

Even in the case where the parliament does not have the constitutional or legal powers to oversee PSOs, they may exercise oversight via control of the budget of PSOs (for example, Switzerland). Most parliaments, except for those of Canada, France, Poland, and Turkey, are in a position to discuss, approve or reject the budget for PSOs and are therefore able to block their governments' decision to deploy troops abroad by withholding funds. This happened, for example, to the US military contingent during the UN PSO in Somalia. After the first casualties were incurred in 1993, the US

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[32] According to interview held with Hungarian expert on security and defence issues (June 2003).

[33] F. Lamy, *Le Contrôle Parlementaire des Opérations Extérieures*, Rapport 2237, Onzième Legislature, Paris, 2000.

[34] French Constitution, 1958, Article 53.

[35] Lamy, *op cit.*

Congress stopped the funding for the US troops in the PSO, after which the troops were withdrawn in 1994.[36] The power of the purse is one of the reasons why the US Senate is very powerful as both the Senate and House have far-reaching control over the budget. Both the Plenary and the Committee on Armed Services of the US Senate 'can exercise the power of the purse to prevent, condition or stop participation in missions'.[37] However, generally speaking, the power of the purse does not entirely compensate for the lack of a constitutional power of prior authorisation. After the troops are sent abroad on a PSO, pulling them out at an early stage of the mission is problematic. Such an act might endanger the PSO or damage the international reputation of a country contributing troops as well as fomenting disaster for other perhaps much weaker contributory nations.

Following the approval to send troops abroad, determination of the mandate, and budget of the mission, very few parliaments will continue to conduct any degree of control over the operational issues of the mission, for example, as regards rules of engagement, command and control and risk assessment. Only in Denmark, Germany, the Netherlands and the United States does the parliament have any control over these operational issues. On analysis, these same countries have the greatest powers from the primary approval of sending troops abroad to having the right visit those troops once abroad. How long the mission will endure is a matter which appears directly related to the power to approve the budget. For example, those states whose parliaments approve the duration of a mission also have the power to approve the budget of mission. However, this power does not apply in the reverse order. Except in the case of Switzerland whose parliament does not possess the power to determine the mandate of the mission, all other states with the power to approve the duration of the mission will also determine the budget and mandate of the mission.

Finally, the right to visit the national troops involved in peace missions abroad is a common feature in the selected countries. With the exception of Turkey, in the other countries this was a right of the members of the Committee of Defence or of all parliamentarians.

Parliament and Defence Procurement

Defence procurement is an important step in the sequence of actions needed to set up and to implement any given security policy. Parliament plays an essential role in ensuring the procurement decisions focus on the right issues and in remedying should a wrong trend or wrong doing emerge. This would entail parliaments involvement in the entire procurement process, from the preparation phase, during the procurement itself and after, during the life cycle of the programs. Whether parliament is granted any powers in determining the procurement of equipment, goods, ammunitions and services

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[36]   L. F. Damrosch, 'The Interface of National Constitutional Systems with International Law and Institutions on Using Military Forces: Changing Trends in Executive and Legislative Powers', in C. Ku and H. Jacobsen (eds.), *Democratic Accountability and the Use of Military Force in International Law,* Cambridge University Press, Cambridge, 2003, p. 49.

[37]   According to a staff member of the US Senate Armed Services Committee, 2002.

is a matter of much variation in the countries studied. However, a number of essential principles have been identified that apply directly to procurement and hence are important in all countries:[38]

- Foresight: with the exception of extreme urgency, all decisions must be made in light of future requirements;
- Efficiency: the decision-maker is accountable to ensure such to the nation;
- Simplicity: defence equipment is intended to be used under extreme conditions and often served by personnel who, although well trained and educated, have not the education and the technical skills of engineers;
- Interoperability: nobody works or fights alone, but in coalition;
- Affordability: the country should be able to pay for it without jeopardising other segments of the national economic and social life, of the national budget and of defence programs;
- Sustainability: there should be no major or additional unexpected costs;
- Transparency: in all decision-making.

Although from a liberal point of view the direct involvement of the state in the economy is not acceptable, with defence arguably being a matter of state responsibility, transparency and accountability in matters regarding defence procurement ensure a degree of control that would avoid the possibility of corruption and other negative effects.

Our results show that generally parliament has limited control over the government's procurement decisions. This is especially evident in Denmark, Macedonia, Romania and Spain where parliament has no say. In only four of the selected states does parliament have the right to disapprove the contracts made by government (Germany [for those contracts above €25 million], the Netherlands, Poland and the United States). In those same states, including Switzerland and the United Kingdom, the Minister of Defence is obliged to provide the parliament with detailed information on procurement decisions. The lack of this right deprives parliament the ability to approve or disapprove specific defence procurement projects.

A few parliaments are involved in the process of specifying the need for new equipment. This is the case in Canada, Czech Republic, France, Germany, the Netherlands, Sweden, Switzerland and the USA. The comparison between different offers and the final selection of a manufacturer and product is decided by the parliament only in the Czech Republic, Netherlands and the USA; and it seems to be an executive prerogative in the rest of countries under analysis. Only in those same three countries is the parliament involved in assessing offers for compensation and off-set.

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[38]   A. Faupin, 'Defence Procurement Decision-Making and Lobbying: A West European View' in *Democratic Oversight of the Security Sector: Turkey and the World*, DCAF and TESEV Series in Security Sector Studies, No. 1, Istanbul: TESEV, 2005.
Available at: http://www.dcaf.ch/_docs/DemOversight_Turkey/Faupin%20English.pdf

Table 8: Parliamentary Powers to influence Government's Procurement Decisions

	Right of Parliament to Reject Contracts	Defence Minister Obliged to provide Parliament with Information on Procurement Decisions	Parliamentary Involvement in Specifying New Equipment Needs	Parliamentary Involvement in Selecting Producer	Parliamentary Involvement in Assessing Compensation & Off-Set Offers
Canada	O	O	X	O	O
Czech Republic	O	O	X	X	X
Denmark	O	O	O	O	O
France	O	O	X	O	O
Germany	X (above €25m.)	X (above €25m.)	X	-	-
Hungary	-	-	-	-	-
Macedonia	O	O	O	O	O
Netherlands	X	X	X	X	X
Poland	X	X	O	O	O
Romania	O	O	O	O	O
Spain	O	O	O	O	O
Sweden	O	O	X	O	O
Switzerland	-	X	X	O	O
Turkey	O	O	O	O	O
United Kingdom	O	X	O	O	O
United States	X	X	X	X	X

X: Parliament possesses the power.
O: Parliament does not possess the power.
- : Not available or not applicable.

Source: DCAF/NATO PA research 2002.

In the case of the USA, the power of the US Congress is derived from the US Constitution which grants Congress 'the power to raise armies', and further, it is the

US Congress (Senate and House) that has to approve all procurement decisions. Though they have these powers, often these powers are delegated to the Ministry of Defence, but if desired the 'US Congress could tell the military exactly how many pencils to buy each year'.[39] With the differing powers of all parliaments, it is largely the power of the purse which enables or otherwise the parliament to influence the government's procurement policy.

Parliament and Security and Defence Policy

With regard to security and defence policy formulation, we see some interesting differences between the parliaments. A small majority of parliaments are granted the power to define the security policy and defence concept. However, this majority is diminished as regards the military-technical policy, a power which is generally left to the military.

Table 9: **Parliamentary Powers Concerning Security and Defence Policy**

	Security Policy Concept	Defence Concept	Force Structure and Planning	Military Strategy
Canada	O	O	O	O
Czech Republic	X	X	X	X
Denmark	O	O	O	O
France	X	X	O	O
Germany	X	X	X	X
Hungary	X	X	-	-
Macedonia	X	X	O	O
Netherlands	X	X	X	X
Poland	O	O	O	O
Romania	X	O	X	O
Spain	O	O	O	O
Sweden	X	X	X	O
Switzerland	X	X	X	X
Turkey	O	O	O	O

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[39] According to a former staff member of the US Senate Committee on Armed Services.

United Kingdom	O	O	O	O
United States	O	O	O	O

X: Parliament possesses the power.
O: Parliament does not possess the power.
- : Not available or not applicable.

Source: DCAF/NATO PA research 2002.

One might assume that the US Congress would be a strong parliament regarding policy formulation. The contrary appears to be the case, as opposed to the Czech Republic, Germany, the Netherlands, Sweden and Switzerland whose parliament plays a bigger role in policy formulation. One reason might be that the oversight power of the US Congress is mostly based on law making and the power of the purse. Because the national security policy concept has in the USA and in most other countries not the status of a law nor has it direct financial consequences, the classical oversight powers (law making and budget control) do not apply to policy formulation. However, in those countries whose parliaments are lacking the power to oversee policy formulation (Canada, Denmark, Poland, Spain, Turkey, UK and USA), this power is compensated by the power of the purse. Therefore, new policy initiatives can be blocked by rejecting the budget. This happened, for example, in the USA where the US government formulated the new Nuclear Posture Review (without the US Congress voting on it) but where Congress blocked the development of a new generation of nuclear bombs (the so-called 'mini nukes').[40]

In France and Macedonia, we see that the parliaments influence the general policy documents, but not the military-technical policy documents. Four (Germany, Romania, Sweden and Switzerland) of the six countries (including the Czech Republic and the Netherlands) with parliamentary powers over force structure and planning are also those countries who have mandatory military service. In general, the lesser the degree of parliamentary power over security and defence policy, the greater the power that should be enabled to control of the budget of defence issues.

Parliament and Military Personnel

The US Congress (Senate) appears to have strong involvement in military personnel issues. In contrast to the other parliaments, the Congress has the power to confirm civilian appointments (Assistant Secretary and higher) as well as high ranking military promotions (by majority vote).[41] Parliamentary influence over high-ranking military appointments is absent in all states except the US. Overall, parliamentary powers

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[40] W. Pincus, 'Rumsfeld Tries to Revive Burrowing Nuclear Bomb', *Washington Post*, 1 February 2005, page A02.

[41] This power is only granted to the US Senate, not the House of Representatives.

regarding military personnel are limited in all countries, except for France, Germany, Sweden, Switzerland and the US, where the parliament at least plays a minimum role in the size and quality of the military force as well as top appointments of generals. In France, Sweden and the US, parliament approves military manpower plans and additionally in Germany, Romania and Switzerland, the parliament approves the maximum number of military personnel. This power is in line with Romania, Sweden, Switzerland and Germany having mandatory military service.

Table 10: Parliamentary Powers Concerning Military Personnel

	Parliament Provides Consent to High-Ranking Military Appointments	Parliament Approves Military Manpower Plans	Parliament Approves the Maximum Number of Military Personnel
Canada	O	O	O
Czech Republic	O	O	O
Denmark	O	O	O
France	O	X	X
Germany	-	-	X
Hungary	-	-	-
Macedonia	O	O	O
Netherlands	-	-	-
Poland	-	-	-
Romania	O	O	X
Spain	O	O	O
Sweden	O	X	X
Switzerland	O	O	X
Turkey	O	O	O
United Kingdom	O	O	O
United States	X	X	X

X: Parliament possesses the power.
O: Parliament does not possess the power.
- : Not available or not applicable.

Source: DCAF/NATO PA research 2002.

Conclusion: Control as a shared responsibility

It is important to realise that parliament and government are not regarded as adversaries with antagonistic goals, but have a shared responsibility regarding their foreign and security policy. The idea of 'shared responsibility'[42] implies that the communication between parliament, government and the top military leaders is characterised by trust, open lines of communication, mutual inclusion and inviting each other to express each other's opinion. In *concreto*, this means that the government respects the parliament as the ultimate source of legitimacy. Moreover, parliament respects the government's responsibility to lead the military and that the security sector has some special functional requirements (secrecy and quick decision-making in military operations). In sum, parliament, government and military leaders need each other in order to achieve an effective security policy that meets both the military and societal requirements. Therefore, democratic oversight not only means commands and orders, but also incorporates dialogue and communication between political leaders and generals.

Ultimately, democracy (and therefore democratic control) cannot be a gift. To achieve democracy, as we know it, one has to struggle. History teaches us that most countries have had to fight to become a democracy and to dethrone their authoritarian rulers, be it a dictator at home or abroad. The same is the case with democratic oversight. In both new and old democracies, neither governments nor the security sector organisations are very willing to surrender (parts of) their powers and privileges. To establish best practices or to eliminate inappropriate practices is not only a matter of knowledge and expertise, but also of resolve and conviction.

At the international level, principles have been defined and expectations made that countries must in theory and practice incorporate the principles of democratic control over their defence activities. However, the implementation of effective democratic control must occur firstly at the national level.[43] The significance of democratic control of the armed forces is to ensure that the armed forces and their requirements occupy an appropriate place in the nation's priorities; that they do not absorb an undue proportion of the national resources; nor exert an undue influence on the development of policy. Democratic oversight is therefore essential, be the country a presidential or parliamentary democracy, an 'old' or 'new' democracy.

In practice, many challenges confront democracies in their strive for democratic control of defence activities. Particular challenges are posed to parliamentary oversight, namely:

- Secrecy laws may hinder efforts to enhance transparency in the security sector. Especially in emerging democracies or conflict-torn countries, laws on secrecy may limit or jeopardise parliamentary oversight of the security sector; this is also due to the absence of legislation on freedom of information.

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[42]   D. Bland, 'A Unified Theory of Civil-Military Relations', *Armed Forces and Society*, Vol. 26, No. 1, 1999.

[43]   S. Lunn, 'The Democratic Control of Armed Forces in Principle and Practice', in Born *et al*, 2003, note 1, at p. 19.

- The security sector is a highly complex field, in which parliaments have to oversee issues such as weapons procurement, arms control and the readiness/preparedness of military units. Not all parliamentarians have sufficient knowledge and expertise to deal with these issues in an effective manner. Nor may they have the time and opportunity to develop them, since their terms as parliamentarians are time-bound and access to expert resources within the country and abroad may be lacking.
- The emphasis on international security cooperation may affect the transparency and democratic legitimacy of a country's security policy if it leads to parliament being left out of the process. It is therefore crucial that parliament be able to provide input to, participate in and follow up on debates and decisions in the international arena.

To overcome these challenges, all concerned actors must be persuaded that parliamentary oversight is in the interest of both democracy and security. Specifically in this respect, the political willingness of individual parliamentarians is crucial. Do parliamentarians keep a careful watch on their oversight powers? Do parliamentarians duly exercise those oversight powers, in particular when their 'political friends' are in government? Are they prepared to make the effort to become acquainted with the complex issues at stake? Are they willing to invest time and energy and political goodwill in establishing a system of good governance of the security sector? In answering these questions, one could learn a great deal from parliaments in old and new democracies. The political willingness to do so, however, cannot be taught.

In summary, there are many aspects that both old and new democracies can learn from the other democracies. Perhaps the most important broad issues are:

1. Political willingness of parliamentarians is paramount for implementing reform of both the political/parliamentary system and the security sector. If parliamentarians do not want to use their powers in holding the government accountable, their constitutional or legal powers are of little use;
2. In many instances, however, parliamentarians are willing but not entirely able to over view the government and its agencies, due to lack of human and budgetary resources. Those resources, such as a parliamentary staff, provide parliaments essential capability to perform oversight;
3. Political and parliamentary reform precedes security sector reform. Otherwise reforming the security sector becomes similar to driving a car without a steering wheel.

Political and military leaders have shared responsibilities in reforming the security sector, given that the reform has to fulfil both functional and societal demands.

Chapter 3

Civil-Military Relations and the Formulation of Security Policy

Dr. Willem F. Van Eekelen

The democratic revolutions in Central and Eastern Europe have been of historic proportions. They signified the end of an ideological struggle which had divided the continent for forty years and had acquired frightening military proportions. In the West, the fear of a massive surprise attack gave priority to collective defence. In the East, the military factor and the dialectic obsession with the correlation of forces exerted excessive influence on the formation of foreign policy. Their thinking excluded win-win situations and focused on the arithmetical calculations of losses incurred when the adversary seemed to gain influence.

After 1989, the continuing transformation was much more encompassing and complex than the mere disintegration of communism and the Soviet Union.[1] New standards had to be met, if the former members of the Warsaw Pact and the USSR had a chance to be admitted to Western organisations like the Council of Europe, NATO and the European Union. All insisted on the conditions of the rule of law, pluralistic democracy, market economy and good neighbourliness. In this context, civil-military relations were seen as an element of democratic accountability under a parliamentary system recognising the primacy of politics over the military and any other part of the government.

Democratic Control of the Military

The European norm here is that armed forces are unambiguously subordinate to the lawfully elected government-in-office and the armed forces' leadership has no voice in public affairs beyond its professional domain. Generally, this is the position across Europe. It is true that, typically, the military owe allegiance to the state, not the government of the day, and the Head of State is usually their nominal Commander-in-Chief. However, with regard to this practice it is necessary to underpin two important

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[1]   Jeffrey Simon, *Central European Civil-Military Relations and NATO Expansion*, Institute for National Strategy Studies, National Defence University, Washington DC, 1995.

presumptions: that when power legitimately changes hands, the armed forces dutifully serve their new political masters; and that the military's job is to safeguard *national* security, not *regime* security. Complications may arise where there is a popularly elected Head of State and therefore two loci of political authority that may be at odds, necessitating 'cohabitation'. In those EU member-states and soon-to-be member-states where this applies, there may be occasional friction – as in France and Romania from time to time – but there is no perversion.

This has implications for the relationship between the military and the executive branch of government. Subordination of the armed forces – and their high command (or General Staff) – requires that they be firmly under civilian political direction. In advanced democracies such 'control' is normally exercised not by the Head of Government personally but, as in other areas of the administration, by a department minister (though Chiefs of Staff may have a right of direct access to the Prime Minister in certain circumstances, as they do in the United Kingdom, for example). This is typical European practice. Also, throughout the Union, 'control' is much more than nominal. The top brass are emphatically not 'a law unto themselves in matters of defence policy-making, planning, programming, budgeting and spending. Indeed, in today's world, they do not have complete freedom of manoeuvre even in operational matters.

From the standpoint of democratic good governance, the third dimension of civil-military relations – the role of the legislature – is of central importance; and here accountability and transparency are the watchwords. In the security field, as in any other, it is the executive's obligation to reveal, explain and justify *what is done* – policy accountability; and *what is spent* – financial accountability. A commitment to transparency is essential to the fulfilment of this dual obligation. It is the legislature's responsibility to hold the government to account in both ways. On spending, this applies not only *ex ante*, covering scrutiny of the budget or planned outlays, but also *ex post*, covering scrutiny of defence accounts or realised outlays. To exercise oversight effectively, elected representatives must exert their right to know how the government is conducting its business, which means insisting on all-round transparency. Discharging the responsibility further requires suitable structures, such as a competent committee or specialist committee, and – for monitoring expenditures – an independent audit bureau. It also requires appropriate processes, such as regular public 'hearings' or inquiries that yield published proceedings, plus a procedure for the formal certification of accounts.

The relationship between the military and a country's domestic security community of analysts, academics, journalists, interest groups and other civil society organisations is a complementary fourth dimension of civil-military relations. Here, too, transparency is of the essence. In the absence of information – in a phrase, open government – there cannot be the wider societal oversight of defence affairs that is the hallmark of good governance in advanced democracies.

Finally, the term 'civil-military relations' extends – or ought to extend – to embrace the relationship between the military and society-at-large. Patterns of recruitment and resettlement, the organisation of military education, popular attitudes to the armed forces – these and many other factors determine whether the military is

well integrated in society or whether it exists as effectively 'a state within a state'. It goes without saying that the former condition is preferable to the latter.

The generalised view of good practice in civil-military relations that underlies thinking in the EU and NATO features the following:

- a clear division of authority between the Head of State, the Head of Government and the security-sector ministers, enshrined in a written constitution or public law, and unambiguously ascribing roles and responsibilities concerning control of the military (including *inter alia* the status and rights of the armed forces, who provides executive direction, who makes top appointments, who has emergency powers in crises, and who has the authority to declare war);
- peacetime governmental (executive) direction of the general staff and commanders through a defence ministry, with that department clearly responsible for all key choices about the size, shape, equipment and deployment of the armed forces (and with accountable civilian officials having the decisive voice);
- effective legislative oversight of the defence organisation to ensure legitimacy and popular support – exercised primarily, though not exclusively, through 'the power of the purse' – which (a) goes beyond perfunctory scrutiny and more or less automatic (rubber-stamp) approval of what the executive proposes, (b) engages, through committees, the main opposition parties, and (c) is supported by knowledgeable parliamentary staff and 'outside' expertise;
- maximum transparency and openness – involving analysts, academics, interest groups, active and inquisitive media and other civil society bodies – that complement elected representatives' supervision; and, last but not least,
- a popular perception that there is civilian and democratic 'control' of the armed forces with military staff clearly answerable to civilian office-holders who are themselves clearly accountable to the legislature society-at-large.

The mirror image of this last item is, of course, popular confidence that the uniformed military have no special 'voice' in public affairs beyond their own domain. The corollary, though, is no less important. Within that domain, the military's professional expertise should be acknowledged and their policy advice respected.

Changing Roles of the Military

Under the influence of the disintegration of Yugoslavia and the eruption of ethnic and religious conflict, the role of the military has been changing, and correspondingly its relationship with the government. This was a new phenomenon affecting both old and new democracies. During the Cold War, the military concentrated on their main function of preserving the independence and territorial integrity of their county and the states they were allied with. If fighting started, military operations should be conducted without much interference from the civilian authorities. Some 'fire breaks' were laid

down in rules of engagement, largely relating to the starting of offensive operations or the use of nuclear weapons. All that changed when the military got new missions to restore peace and stability abroad. Before the end of the Cold War, they had engaged in peacekeeping activities, but these were conducted only with the agreement of the parties concerned and under circumstances in which a cease fire was agreed and holding.

After 1989, peace enforcement became a new task, which had a profound impact on civil-military relations. First of all, the military profession became a dangerous one. During the Cold War, not a shot was fired in a direct confrontation between East and West and the struggle for influence was fought in the third world. Secondly, new issues of legitimacy were raised. How could intervention be justified? That was a task for the politicians. For the military, their skills had to be expanded from traditional professional capabilities to a multitude of functions. They had to negotiate with local authorities, mediate between ethnic groups, assist in reconstruction and win the hearts of the people they wanted to bring stability to in a process of post-conflict consolidation. In the words of Gustav Däniker, the new military had to change from warrior to 'guardian soldier' guiding people back to normalcy.

For the individual soldier, peace support operations are also different from national defence in other respects. These operations normally belong to the lower part of the spectrum of violence, but may escalate as a result of actions by rebel groups, terrorists or protesting citizens. Nevertheless, the emphasis will always be on the application of minimal force and the restoration of conditions allowing society to function normally. This has an impact on the personal competences of the soldier, not only for non-military skills, but also for his professional behaviour. He functions in smaller organisational units, sometimes in isolated locations, often in multinational formations. Consequently, his autonomy of action increases, in spite of all modern means of communications with his superiors, and his individual capacities acquire a central position.

The enhanced role of the professional soldier compensates to a certain extent the negative effect of the abolition of conscription in terms of firmly embedding him (and increasingly also her) in society. Sociologically, conscription was positive for mixing boys from different backgrounds and from other regions, teaching them some discipline and contributing to their physical fitness. The recruitment of professional soldiers can risk attracting macho types and missing a cross-section of society. Training for peace support will have a positive effect in correcting such shortcomings.

The experience of the Yugoslav war was most unhappy. Not only because of the barbarism demonstrated on all sides among people who earlier had managed to co-exist, but also because of the insufficient measures taken to prevent further escalation. The military received ambiguous mandates without the necessary means to carry them out. At first, they were still dispatched for peace keeping, while it was clear that there was no peace to keep. On the contrary, some of the parties did not want peace, but tried to expand their territory. Then 'safe havens' were created, which proved to be far from safe because both the capabilities to protect them, and the will to use them, were lacking. No wonder civil-military relations suffered from a serious lack of co-

ordination, complicated by a host of non-governmental organisations performing humanitarian activities.

With Däniker we pose the following question to the civilised people of tomorrow: are we prepared – beyond self-defence and the safeguard of vital national interests – to ensure that in the 21st century, with co-ordinated action and the use of all available and if necessary also military means, aggression and open violence will become less and less rewarding? Do we commit ourselves to ensuring that the perpetrator of such violence has no chance, neither internally nor internationally, to remain successful and escape unscathed? Are we prepared to make the necessary sacrifices and to accept among our (voluntary) intervention forces those casualties which will be inevitable when all non-violent efforts to restore peace have remained without avail?

However, once people consent to all this, they have to be able to ensure that their armed forces are capable of mastering the resulting dual function – i.e. national self-defence plus supranational peace enforcement – with all the necessary responsibility, both intellectually and materially.[2] To be effective, military officers and civilians alike will have to agree on some fundamentally new concepts concerning the use of armed forces:

1. Armed forces must be able to assume the functions of war prevention, intervention and defence; their deterrent and combat functions will become secondary.

2. Military victory increasingly becomes a tactical goal. The strategic goal is the creation of favourable conditions for new, more comprehensive and sustainable peace settlements that involve the former adversary.

3. The ultimate goal of future military doctrines is neither 'annihilation' nor 'attrition'; it is the 'elimination of the enemy's resistance', it may be 'punishment', 'undermining the enemy's combat morale', 'neutralisation' or 'disarming' of the opposing armed forces, but eventually 'reconciliation'.

4. Every combat plan therefore has to be proportional, i.e. it must endeavour, among other things, to minimise losses, not only one's own, but also those of the adversary.

5. Future military thinking and action must no longer be confined to purely military categories. Even in details, the main goal of post-conflict reconstruction has to be taken into account.

6. Flexibility and multifunctionality are as important as firepower and battlefield mobility.

7. In the 21st century, the soldier's mission will be to protect, to help and to rescue. His guideline will be increasingly purpose-oriented and dependent on effective contributions to the maintenance or restitution of peace and to the task of securing a life worth living for all.

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2   Gustav Däniker, 'The Guardian Soldier: On the Nature and Use of Future Armed Forces', *UNIDIR Research Paper*, No. 36, 1995, p. 89.

These tasks bring military and civilians closer together and necessitate intensive co-operation.

The Role of Civilians

An area of potential disagreement concerns the role of civilians in the Ministry of Defence (MoD). A standard feature of most Western democracies is that the Minister of Defence comes from a civilian background. There are a number of reasons for this, notably the fact that a civilian is considered better equipped to take account of broader policy issues and influences in the collegiate body of a cabinet; and better able to fight the MoD's corner in the competition for resources.

This is not to say that military men cannot bring the same qualities to bear to the position of Minister. However, Western experience suggests that a civilian background is more appropriate to cover the full range of tasks required of the position. If a military officer takes off his uniform and dons a civilian suit, he is bound to have an uneasy relationship with the Chief of Defence Staff in the division of responsibilities. In several new democracies, the device was used to smooth transition, but was generally moved rapidly to civilian responsibility. There it took longer to establish good communications between the minister and the top military officers. Most, but not all, Western ministries of defence employ a large number of civilians to work alongside military officers in the organisation and running of the ministry. The use of civilians has clear advantages as they bring skills in terms of administration, management and finance that military professionals frequently do not possess. However, many civilians also work in policy areas, which take them into military territory where, without a careful delineation of boundaries, friction can occur.

Most CEE countries, reacting to Western urgings, rather rapidly produced 'civilians' in their Defence Ministries. However, most of these personnel were former military officers. This was partly due to the dearth of civilian expertise available in post-Communist countries, but also to the residual belief in the primacy of the military in defence matters. The respective roles of civilians and uniformed personnel raises the broader issue whether service life produces an exclusively military approach which permanently influences the working methods of a military officer and therefore narrows his future employment applicability. Clearly, much depends on the individual. Many military men make the transition to civilian policy positions, for example at NATO, without apparent difficulty. However, the broader answer is that it is important to maximise the particular skills of both civilians and the military, professional or retired, and ensure that they complement and reinforce each other.

This leads to the central issue – how to divide competence and responsibility between the political and military sides – an issue which permeates all aspects of democratic control. Are there areas which are strictly military only, where the military should be allowed to get on with their business unimpeded by political interference? Common sense suggests yes: that there are areas such as the development of doctrine and tactics and the education and training of armed forces which should be left to military professionals. Likewise, in conflict situations it would be obvious that the handling of operations should be governed by professional military judgement.

However, experience tells that few military areas are free from some form of political interference or oversight. This might be exacerbated if the political system of the country implies a rotation of senior civil servants with every change of the composition of the government. Preferably, a competent civil service should be immune to political change and serve any government loyally.

Non-Military Security Services

Navies, armies and air forces are not continuously engaged in field operations and when they are, it usually is on foreign soil, far away from the daily scrutiny of their citizens. Police forces and intelligence agencies, to the contrary, are going about their operational business all the time and for the most part on home territory, dealing with the state's own public.[3] This entails some constraints on the transparency of their day-to-day operations, but conversely enhances the limelight in which their effectiveness and integrity is judged by the population.

At the end of the 1990s, public trust in the police was at an all-time low. The police appeared unable to protect the public and there were revelations of misconduct and corruption. This prompted demands for greater accountability to law and public opinion, and for forces to demonstrate that they make communities safer, manage their affairs efficiently, and treat citizens fairly. Primarily as a result of external pressure, police organisations have accordingly been providing more information and statistics on their work and effectiveness. At the same time, police in jurisdiction after jurisdiction have been required to share responsibility for maintaining appropriate levels of discipline with newly created civilian review bodies. In effect, the police lost their monopoly on determining whether officers were treating citizens correctly. Effective policing is based on public confidence and trust. This requires transparency and accountability to independent oversight bodies. In the all-important area of fighting crime this is necessary to ensure that investigation can take place free from professional impropriety and political influence. However, it is essential that supervisory bodies are well-resourced and well-equipped with capable and knowledgeable staff. Moreover, oversight institutions will only be truly effective in affecting police practice if they win over and work in conjunction with internal disciplinary and self-regulating processes.

Accountability and transparency of intelligence agencies has a different meaning and purpose than arrangements for law enforcement agencies. In theory, intelligence exists only to support policy-makers. The intelligence process is set by the requirements of the policy-makers. Because intelligence agencies are operating in a world that is largely shut off from the public, from the legislature and to a lesser extent also from the executive, this environment can easily turn into a secretive and self-serving world where the intelligence instruments become ends in themselves. This reinforces the need for constant independent oversight and effective accountability as a shared responsibility of the executive and legislative powers.

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[3]   David Greenwood and Sander Huisman (eds.), *Transparency and Accountability of Police Forces, Security Services and Intelligence Agencies*, Sofia: Procon, 2004, p.12.

The events of 9/11 put international terrorism on the top of the agenda and reinforced developments of inter-connection in many areas:

- Increased inter-agency co-operation and co-ordination (given major impetus in the US, leading to the creation of the Department of Homeland Security).
- Extension of the powers of institutions involved in countering money laundering (boosted by the decision to target the financial resources at the disposal of organisations like Al-Qaida).
- Assumption of law enforcement functions by institutions not always considered part of the security sector (e.g. customs and immigration services).
- Widening of law enforcement and intelligence agencies' surveillance powers, especially over telecommunications traffic.
- Increasing trans-national co-operation, including not only information-sharing but also extra-territorial operations that may escape scrutiny (for example the interrogation by CIA agents of terrorist suspects in other countries).

Police Co-operation in the European Union

The Europeans' preferred medium of collaboration is Europol, an organisation with more resources at its disposal and considered better equipped to accommodate extended co-operation among law enforcement (and some intelligence) agencies in Europe than Interpol. Part of the 'third pillar' of the EU, Europol's core business is police co-operation for the purposes of preventing and combating trans-national organised crime and international terrorism. The Europol Convention of 1995 which entered into force in 1999 enumerates the following functions: support for national criminal investigation and security authorities; creation of databases; central analysis and assessment of information; collation and analysis of national prevention programmes, measures relating to further training, research, forensic matters and criminal records departments. The text gave Europol no executive power to carry out law enforcement tasks.

In recent years, however, EU member states have been eager to enhance Europol's legal, financial and technical resources, and its powers. In 2001, its budget was increased by almost 50 per cent. No less important, the Europol Convention has been rewritten to give the organisation operational powers and a much wider remit. It is already the largest clearinghouse for bilateral and multilateral exchanges of information and hosts the central EU intelligence database. It will cease to be a purely co-ordinating body, but will also participate in joint inquiries and even help initiate criminal investigations in member states. In sum, EU member states are progressively making Europol a force, which provides a strong stimulus for common working and reporting procedures concerning organised crime and terrorism. Other recent developments that underline the 'Europeanisation' of law enforcement and (criminal) intelligence are the agreements among EU member states to set up a joint arrest warrant, to adopt a common definition of terrorism, and to define a common list of terrorist organisations.

There are also plans to make European governments be able to access personal electronic information held in data banks.

However, there is still minimal political supervision and a lack of independent scrutiny of the Europol set-up. The European Parliament is on the margins of the decision-making process. The Council of the European Union has proposed that future amendments of the Europol Convention should no longer require ratification by national parliaments, but only unanimous agreement in the Council of Ministers. This may give Europol the needed flexibility, but does not solve the problem of democratic control over such a delicate matter as international police activities.

The European Constitution has taken judicial co-operation in criminal matters a step further, at least conceptually. In practice, it will remain difficult for police authorities who prefer informal bilateral contacts to a multilateral clearinghouse, and they point at the different cultures for dealing with arrests, criminal procedures and evidence. Nevertheless, the increase in trans border crime necessitates rapid information systems and joint action to deal with international networks. The more this necessity becomes obvious, the more it will impact on national practice leading towards reforms in the security sector. It not only is a matter of civil-military relations, but also involves breaking down the walls separating the activities of prosecutors, customs officers and border guards from the police and the military. As such, the new threats of terrorism and organised crime will strongly militate in favour of better co-operation and more transparency.

The basic principle for EU judicial co-operation is the mutual recognition of judgements and judicial decisions as well as the approximation of laws and regulation in certain specific areas relating to 'particularly serious crime with a cross-border dimension'. Article III-172 of the Constitution lists them as follows: terrorism, trafficking in human beings and sexual exploitation of women and children, illicit drug trafficking, illicit arms trafficking, money laundering, corruption, counterfeiting of means of payment, computer crime and organised crime. It is worth noting that the jargon no longer refers to organised crime, but uses the more qualitative definition of serious crime.

After Europol, the EU established Eurojust to strengthen co-ordination and co-operation between national investigating and prosecuting authorities in relation to serious crimes affecting two or more Member States. European laws shall determine Eurojust's structure, operation, field of action and tasks. According to Article III-174 of the EU Constitution, those tasks may include:

- the initiation of criminal investigations, as well as proposing the initiation of prosecutions, conducted by competent national authorities, particularly those relating to offences against the financial interests of the Union;
- the co-ordination of investigations and prosecutions referred to in point (a);
- the strengthening of judicial co-operation, including by resolution of conflicts of jurisdiction and by close co-operation with the European Judicial Network.

European laws shall also determine arrangements for involving the European Parliament and Member States' national Parliaments in the evaluation of Eurojust's activities.

The EU Constitution opened up the possibility of establishing a European Public Prosecutor's Office from Eurojust. To do so, the Council should act unanimously after obtaining the consent of the European Parliament. The new office was hotly debated during the Convention preparing the EU Constitution. Particularly the Anglo-Saxon countries with their common law systems and jury trials were most reluctant. Their anxiety seemed unwarranted, however, as the Prosecutor in all probability would respect the criminal procedures of the country he would initiate his case in. The new Article III-175 restricted his competence to 'combat crimes affecting the financial interests of the Union' but left open the possibility of later extending his powers to include serious crimes having a cross-border dimension. This was already anticipated in the definition of the responsibility of the office for:

> 'Investigating, prosecuting and bringing to judgement, where appropriate in liaison with Europol, the perpetrators of and accomplices in serious crimes affecting more than one Member State and of offences against the Union's financial interests, as determined by the European law provided for in paragraph 1. It shall exercise the functions of prosecutor in the competent courts of the Member States in relation to such offences'.

On police co-operation, the EU Constitution did not proceed beyond the limits agreed in the 1990s. Europol's mission remained a supporting role to strengthen action by Member States' police authorities. The full article III-177 is reproduced in the Annex together with article III-178, which deals with the conditions under which authorities of one Member State may operate on the territory of another.

In connection with illegal activities affecting the Union's financial interests the Constitution also has a general provision for measures of protection of and the fight against fraud with a view to affording effective and equivalent protection in the Member States and all the Union's institutions (article III-321). The European Commission, with strong support from the European Parliament, established the European Bureau for combating fraud (OLAF) in 1999. The following year, the Commission adopted a communication concerning a general strategic approach to fraud.[4] It defined four challenges: a legal framework with strengthened prevention, detection, control and punishment; an administrative and financial follow-up; a new culture of operational co-operation with the member states; an inter-institutional approach of preventing and combating fraud. OLAF rapidly grew in status and devoted particular attention to corruption within the EU institutions and the candidate-states. The Commission also took the initiative for a European Prosecutor, which finally made its way into the Constitution.

Undoubtedly, progress was made, but the ultimate shape of the European area of freedom, security and justice still seems uncertain. France and UK resist

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[4]   COM (2000) 358 and Bulletin 6-2000, point 1.7.10.

communautarisation of police cooperation and don't promote Europol. It would make sense to combine the databases of Schengen and Europol and to co-operate more closely with OLAF and also with Eurojust. So far, however, the Task Force of police chiefs works on its own and has little relation with the EU Council for Justice and Home Affairs. A stronger link with this Council poses few problems for the countries with a centralised police system, but is difficult for those with decentralised police services. Dividing lines between Member States run differently according to the issue at stake.

In the context of our present study, the relationship between Europol and the police elements of peacekeeping forces merits further attention. One might argue whether peacekeeping and post conflict reconstruction can be reconciled with the gathering of criminal information. In Bosnia, co-operation between police and military was far from ideal, but that situation may change, because both operations now are implemented by the European Union. The difficulties experienced by the US in Iraq also point in the direction of joint civilian-police-military co-ordination.

New Challenges

Greenwood and Huisman have summarised the new challenges arising from catastrophic terrorism in the following points:

1. There is a growing interconnection between internal and external security, which means that the distinction is becoming blurred. The result has been increasing co-operation between (a) law enforcement bodies and intelligence agencies and (b) the military. This raises concerns about the overlap of tasks and produces turf wars between the Ministries of Interior and Defence. On top of that, the trans-national and non-state character of terrorism calls into question some of the fundamental premises of security sector organisations. Terrorism challenges this institutional and legal dichotomy, because it combines features of both internal and external threat and because it operates at the uneasy juncture between them.
2. There is an increasing overlap in the tasks falling on law enforcement bodies themselves, blurring service boundaries. The same can be said of relations between law enforcement forces and intelligence agencies. More and more intelligence agencies are expanding their work to policing (e.g. organised crime). Many police forces are conducting intelligence operations (e.g. wiretapping). There should be close inter-agency co-operation and co-ordination, but often there is not. Also, these developments have largely occurred without the active involvement of, and scrutiny by, national parliaments.
3. There are governmental agencies whose activities have a law enforcement character – for example, institutions investigating money laundering, customs and immigration services – but whose accountability for these activities is not

clearly defined. Moreover, politicians are willing to extend such agencies' powers, again without proper provision for legislative oversight.

4. Similar arguments apply with respect to widening law enforcement and intelligence agencies' surveillance powers, in which legislators have been content by and large to acquiesce.

5. Private security organisations have mushroomed, complementing and, in places, even supplanting regular police presences. They are not, however, accountable as 'real' police forces are.

6. Internationalisation and 'Europeanization' are leading to closer cross-national co-operation among law enforcement bodies and intelligence agencies, to the actual or potential detriment of transparency, and of accountability and authorisation procedures – for instance where extra-territorial operations are involved.

The bottom-line here is that accountability frameworks are inadequate. There is an oversight 'deficit' in relation to the long-established institutions and practices of law enforcement, intelligence gathering and counter-intelligence. There is a zero to near-zero monitoring of private security forces and government agencies with collateral law enforcement powers. Insufficient attention has been paid to international co-operation among law enforcement or intelligence organisations. This neglect could leave growing areas of activity beyond scrutiny and affects the legitimacy of the services conducting them, eventually leading to lower public trust in the institutions.

The problem is complicated by the fact that accountability of the police often rests with the local or regional level of government. The UK, despite recent features of centralisation, is one of the few European countries without a national police. In general, policing, meaning the activity of making societies safe, is no longer exclusively carried out by governments. Private security companies have appeared everywhere, from airports to night-duty services. This also raises questions of scrutiny and accountability. Ideally the responsibility for dealing with trans-national crime and security should be pushed to the central level, while devolving the responsibility for public disorder and petty crime to the local level. But adequate information links between the two levels have to function, as much petty crime is often related to international drugs trade or other forms of organised crime.

The police have created their own international information networks. The Schengen Information System got considerably more storage capacity in its second phase. Interpol has a global police communication system which allows real-time checks in an encrypted environment. The EU built Eurodac for finger printing asylum seekers. A global 'cop community' is growing with the International Association of Chiefs of Police and the secondment of hundreds of liaison officers around the world to manage the flows of information. Police professionals prefer networks along informal

levels of governance, but central governments regard them as hard to regulate and supervise.[5]

The Council of Europe adopted the European Code of Police Ethics in 2001.[6] In its preambular paragraphs, the need to establish common European principles and guidelines for the overall objectives, performance and accountability of the police to safeguard security and individual's rights in democratic societies governed by the rule of law was expressed. The Code contains 66 paragraphs and an extensive Explanatory Memorandum. By laying the foundation for ethical norms questions were prompted about the values served by the police as an organisation and their proper application. Key concepts within the police such as loyalty, consent, impartiality, discretion and professionalism would all benefit from a common frame of reference and articulate personal standards of conduct. The Code served multiple purposes. It provides the public with the necessary assurance of proper behaviour of the police and thereby builds trust. It also can work as a regulatory instrument for the internal organisation of the police by maintaining quality control of the police organisation (including civilian staff), assisting management and supervision, making senior officers more accountable and providing norms for the adjudication of difficult internal disputes. In many countries, the Code has become a cornerstone of police training, followed up by a discussion of cases posing dilemmas for personal integrity. It will be an important contribution to restoring public confidence in a service which by definition, under normal circumstances, has a virtual monopoly of legitimate coercion at home.

The increasing practice of 'outsourcing' activities, which used to be part of the defence establishment, presents another challenge to democratic control. Following modern business models ministries of defence are concentrating on their core functions and contract out services which could be performed equally well, if not better, by the private sector. Maintenance operations are entrusted to the manufactures of equipment and civilian hospitals are charged with medical services to the military. Those activities are relatively straightforward and only raise questions in terms of reliability in times of war or emergency. The problem of control arises more vividly if private security companies are entrusted with parts belonging to peace support operations or war. In Iraq, such companies were used for guard duties or logistic support.[7]

It is recommended to make sure at the beginning of such operations that the country outsourcing such activities remains fully responsible for the conduct of the companies concerned and their personnel. This relates in particular to their behaviour with regard to the public, prisoners and the observance of human rights. Such

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[5]   Prof. Dr. Monica den Boer, 'Out of the Blue: Police Perspectives on Europe, Governance and Accountability'. Inaugural address at the Free University of Amsterdam, 24 November 2004.

[6]   Recommendation (2001) 10 adopted by the Committee of ministers of the Council of Europe on 19 September 2001. Directorate General I-Legal Affairs. The Council of Europe has devoted consistent attention to this subject ever since its 'Declaration on the Police' of 1979 (Resolution 690 of the Parliamentary Assembly). The Code incorporated the principles expressed in the UN Code of Conduct for Law Enforcement Officials.

[7]   Fred Schreier and Marina Caparini, 'Privatising Security: Law, Practice and Governance of Private Military and Security Companies', *DCAF Occasional Paper*, No. 6, March 2005.

responsibility should be firmly embedded in the UN mandate for peace support operations.

The Coalescence of External and Internal Security

In peace support missions, the role of the military abroad resembles the functions of the police at home. They are there to preserve peace, law and order; they deter by their presence; and they are prepared and willing to act forcefully if necessary for the implementation of their mission. This does not mean that the mission could be left to the police. Some police units will be useful in the reconstruction phase when indigenous capabilities have to be formed and trained. Equally, gendarmerie type of units would be able to contribute greatly to contingencies like riot control or the arrest of war criminals. But the military will continue to be needed to provide the umbrella of security under which the others can function. In this respect, the old maxim still applies that peacekeeping is not necessarily a soldiers job, but only soldiers can do it. That is, if they are properly trained in the skills required by the new security environment. And if the mission requires real peace enforcement, the military clearly are irreplaceable.

The attacks of 9/11 on the World Trade Centre and the Pentagon were inspired from abroad but carried out in a domestic setting. The US reacted by hitting and ousting the Taliban government of Afghanistan, but most of the measures taken in the 'war against terrorism' were at the national level. The intelligence services were strengthened and precautions taken in the protection of strategic objects. Immigration was controlled more severely and personnel were screened better. In several countries, legislation was passed to allow arrest without due process of law. In the quest for security, personal freedom was curtailed.

The fight against terrorism is so difficult because the threat is ill defined. Terrorism is a method to achieve a goal. If it is pursued by a loose and almost intangible network like Al Qaida, it is difficult to counter. If its aims are so general as destroying the Western way of life, negotiation is impossible and traditional measures of dealing with high-jacking and hostage taking – mainly to gain time – have to be revised.

New counter-measures mostly relate to the civilian sphere: the prohibition of suspect organisations, cutting funding and making money laundering more difficult, international co-operation among police and intelligence services, screening of personnel and travellers, protecting core infrastructure and public utilities, etc. The domestic role of the military is very limited. At best, a backup of the police forces might be provided in addition to enhanced surveillance of air and sea space.

This raises the question as to whether the military still have any role to play at home, except in the currently improbable necessity of territorial defence. On both sides of the coin arguments differ. Among the military, there is considerable resistance to 'mission creep' which would keep them from proper soldiering. On the civilian side, a military role at home is regarded as improper, because the soldiers are not trained to play a role on the domestic scene, except when a state of siege or war has been declared. They risk disturbing the system of checks and balances which pertain to the preservation of law and order at home. Conversely, in many countries, the public has

more confidence in the army than in police and other security services, which might be more prone to corruption and undue pressures.

Fighting terrorism at home implies the use of force, which raises the question of who is allowed to authorise it and who will execute it. Governments will have to make clear how the 'right to shoot' will be applied, i.e. whether an express authorisation of the Minister of Justice is required and under what circumstances pre-delegation for urgency situations will be allowed. Implementation requires new capabilities and new methods. Police, gendarmerie and armed forces are forming special teams for arresting or neutralising dangerous persons. These include sharp shooters and close combat teams. Obviously, it is essential that lines of command are clear and efficient. Time is a crucial factor, but the number of authorities involved is high at all levels of government. In the US, the decision was taken to form a special Department of Homeland Security to improve co-ordination. Other countries have also considered the creation of ministries for security in addition to the traditional departments for justice and home affairs. A decisive factor should be whether the lines of authority and communication, existing under normal conditions, could also be used for an emergency. A new layer of co-ordination always carries the risk of duplication and delays. Therefore, the problem boils down to 'who does what, when and how' and making certain that everybody knows his place in this framework. Parliamentarians should assume an important role in pushing their government towards clear lines of command which ensure that all potential players will take part when an emerging crisis requires higher levels of support and the application of force.

Human Security

Security in the 'age of terrorism'[8] acquires a specific human dimension. Protection of the individual citizen is a fundamental duty of the democratic state. It is made more complex and difficult when the threat of terrorism looms large and creates an atmosphere of fear and uncertainty. The concept of human security was advanced before the terrorist attacks of 2001 took place. Among its main proponents was Lloyd Axworthy, Canadian foreign minister from 1995 to 2000 and later special envoy of the UN Secretary General for Ethiopia and Eritrea. He acknowledged that it was more important to address threats to individuals, rather than threats to nation-states. In the spring of 2003, the Commission on Human Security drew a number of wide-ranging conclusions which went far beyond the traditional, more limited notions of security. To some, their range was too wide, because the recommendations, if followed up, would alleviate much that currently is wrong or unfair in the world. Nevertheless, they are worth repeating in order to show that military and civilians alike have to operate in an entirely different framework in comparison to the past. The list shows Axworthy's deeply felt emotions:

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[8] See Dr Theodor H. Winkler and Sergei Orzhonikidzhe, 'State and Human Security in the "Age of Terrorism": The Role of Security Sector Reform', Geneva: UNOG and DCAF, 26 January 2004. Further information available at:
http://www.dcaf.ch/news/past_2004/ev_geneva_040126.cfm

1.   Protecting people in violent conflict. This recalls the fundamental norms of International Humanitarian Law, with the appeal to do more for disseminating the basic principles contained in the Geneva Convention.

2.   Protecting people from the proliferation of arms. This doesn't only refer to weapons of mass destruction – of strategic and tactical nature – but certainly very much also to the spread of small weapons and light arms, including landmines.

3.   Supporting the security of people on the move. This is an important point related to the weakness of international legal instruments in the field of migrant populations.

4.   Establishing human security transition funds for post conflict situations. Here the Commission on Human Security joins the Brahimi Panel and the International Commission of Intervention and State Sovereignty in underlying the importance of rebuilding war-torn societies in order to consolidate peace. The signing of peace agreements is not enough – peace must be in the spirit and hearts of the people, through a dynamic of reconciliation, forgiveness, and justice. The availability of financial means is an indispensable tool for political and physical reconstruction.

5.   Encouraging fair trade and markets to benefit the extremely poor, questions largely discussed by the World Trade Organisation. The whole problem of the international trading system is here addressed with many crucial questions present on the agendas of governments following the 5th World Trade Organisation Ministerial Conference of 2003 in Cancun.

6.   Working to provide minimum living standards everywhere. This is a very crucial area: the fight against widespread acute poverty. Work here must appeal to global communication, with honest dialogue, with wide participation to bring about multilateral solutions. World powers must also accept their share of costs and be systematically involved in sharing the burden.

7.   According higher priority to ensuring universal access to basic health care. It is important to notice the spread of pandemic diseases, such tuberculosis and poliomyelitis that were thought to have been eradicated. HIV/AIDS must also be added as an absolute priority. One must also be aware of suddenly appearing infectious diseases such as SARS. But indeed this question touches as many delicate international negotiating points as does the struggle over intellectual property rights. Here, the appeal to Governments must include better internal co-ordination among ministries within countries, as well as a clear and flexible policy line, in order to benefit the weak segments of populations in different parts of the world.

8.   Developing an efficient and equitable global system for patent rights. The emphasis here must be put on the word 'equitable'.

9.   Empowering all people with universal basic education. This fundamental human right is so obvious that it needs no comment, only simply to recall the importance of studying history in order to be aware of the errors of the past. In order to appraise history, one needs a basic education. Two thousands years

ago, Cicero recognised the importance of history with the words: 'Not to know what has been transacted in former times is to be always a child. If no use is made of the labours of past ages, the world must remain always in the infancy of knowledge'.

10. Clarifying the need for a global human identity while respecting the freedom of individuals to have diverse identities and affiliations.

While nobody questioned Axworthy's motives, his approach was criticized for its broadness, which connected security with almost everything.[9] Subsequently, two avenues developed: one focusing on the freedom-from-fear aspect with a practical agenda covering landmines, child-soldiers, humanitarian law and small arms and light weapons; the other, sponsored by the Japanese Trust Fund for Human Security, followed the broad approach and supported projects as diverse as food security for farmers or fisherman, health security and the building of schools.

The term 'human security' has a certain appeal, because it makes clear that, ultimately, the security of the citizen is what matters and should be the primary concern of the state. In this respect, the words 'security sector reform' sound too cold to raise spontaneous support. Yet, the objective is the same, because only democratic good governance can do the job. As Krause rightly wrote, the struggle to establish legitimate and representative political institutions is tied up with the centuries-long effort to eliminate the threat of force and violence from everyday human interaction. This notion was well expressed in the 2001 'Responsibility to Protect' report of the International Commission on Intervention and State Sovereignty and found its way through the December 2004 High Level Panel Report to the UN Secretary General to Kofi Annan's extensive recommendations in his 'In Larger Freedom: Towards Development, Security and Human Rights for All' in preparation of the UN summit held in September 2005. Nevertheless, the range of his proposed reforms was so wide that comprehensive implementation could hardly be expected, quite apart from the tricky question of Security Council enlargement. In terms of human security, Annan was both general and specific and combined the freedom from want and freedom from fear and added the freedom to live in dignity. Eight pages for decision by the heads of state and government might be too much to digest in one go, but raise some hope for acceptance of the less controversial and practical recommendations. In any case, his agenda will remain on the table. Its importance lies in the fact that the security agenda is moving beyond traditional conflict prevention and – resolution. Yet, it remains to be seen whether developing countries will be able to shred their suspicion that making sovereignty and legitimacy dependent on the way a state treats its own citizens will be a new form of interventionism in their internal affairs. Giving more authority to regional organisations might do the trick.

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[9] Keith Krause, 'Human Security: An Idea Whose Time Has Come?', S+F Security and Peace, 23rd year, 2005, No. 1. He quotes Daniel H. Devbney's 1999 comment on environmental politics, 'If everything that causes a reduction in human well-being is labelled a security threat, the term loses any analytical usefulness and becomes a loose synonym for "bad"'.

The Security Sector and Fundamental Rights

The most significant fundamental rights of a democracy include freedom of association and assembly as well as freedom of expression. These fundamental rights are generally recognised and are laid out in the European Convention on Human Rights, the European Social Charter and also the EU Charter for Fundamental Rights solemnly proclaimed at the Nice summit meeting as a politically binding document. The new Constitution of the EU, signed in October 2004 but not yet ratified, includes the Charter as part II and thereby makes it legally binding. On the level of the European Community, the European Court of Justice already recognised the existence of fundamental rights at an early stage and developed them continuously. In accordance with ECJ jurisdiction, these rights expressly include the freedom of association and free speech.

Nevertheless, many servicemen in Europe, who are also 'citizens in uniform', are excluded from these recognised fundamental rights in different ways: some EU and NATO Member States in principle prevent their servicemen from exercising the above stated fundamental rights. In other cases, European legal systems provide for the general exclusion for servicemen or leave such regulations up to the individual states. The right of association is especially concerned by this, i.e. the right of uniformed servicemen to organise themselves in associations with the objective of representing their interests vis-à-vis state institutions.

The Parliamentary Assembly of the Council of Europe adopted a recommendation on the right of association for members of the professional staff of the armed forces[10] on 3 September 2002. It argued that, with the abolition of conscription in many countries, military personnel were becoming increasingly 'regular' employees, whose employer is the Ministry of Defence. Consequently, they should be fully eligible for the employees' rights established in the European Convention on Human Rights and the European Social Charter. The recommendation accepted an interdiction of the right to strike, but specifically mentioned the right to negotiate on matters concerning salaries and conditions of employment, and the right to be members of legal political parties. It also proposed to establish an office of an Ombudsman to whom military personnel could apply in case of individual labour – and other service related disputes.

Today, servicemen are required to protect and defend the rights and freedom of their co-citizens around the world – also risking their own lives. In return, therefore, the civil rights in the armed forces may only be restricted to the extent necessitated irrefutably by their military assignment.

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[10] Chapter 25, 'Promoting Democratic Values Within the Security Sector' in Hans Born, Philipp H. Fluri and Anders Johnsson (eds.), *Parliamentary Oversight of the Security Sector: Principles, Mechanisms and Practices*, Geneva: DCAF & IPU, 2003, p.149-158. Handbook available at:
http://www.dcaf.ch/oversight/proj_english.cfm?navsub1=12&navsub2=3&nav1=3

Against this background the European Organisation of Military Associations EUROMIL[11] has declared its objective to defend the social rights of all servicemen vis-à-vis the European Union and NATO. This also applies to the accession candidates to the EU and NATO as well as Russia and the Ukraine. EUROMIL currently has a membership of 33 associations from 21 countries. It is preparing a handbook on multinationality and assembles a list of core elements which might find its way into a common European military law. Another project investigates the opportunities and problems of joint military and police missions.

All members of EUROMIL accept that freedom is not unrestricted in a democracy. Every serviceman is aware that rights also entail obligations. On the one hand, EUROMIL foregoes the right to strike, on the other hand, it reminds all of the right to co-responsibility, co-determination and co-expression of every servicemen. Their work gained added impetus by reports of the harsh treatment of conscripts, especially in the former communist countries, either by their superiors or in the course of cruel hazing practices.

The purpose of the EU Charter of Fundamental Rights was to summarise fundamental rights already existing in the Union, thus making them more transparent. The EU did not have its own specific catalogue of fundamental rights laid down in writing. However, the European Court of Justice had recognised the existence of fundamental rights at the community level already at an early stage and has developed then continuously ever since. In its jurisdiction, it recognises the principle of equal rights, the freedom of association, the freedom of religion and faith, protection of privacy, the right to property, the freedom to choose an occupation, the respect of family life, the adversarial principle, the inviolability of the home, the freedom of expression as well as the guarantee of resource to law. In addition, Art. 6 Para. 2 TEU stipulates that the EU is obliged to observe fundamental rights as guaranteed by the European Convention on Human Rights[12] and as deriving from the joint constitutional traditions of the Member States as general principles of Community law. This includes in particular the right to life, freedom, integrity and security of the person, the right to an adequate court audience, the right to respect for private and family life, the right to freedom of thought, conscience and religion, the right of freedom of expression and of assembly as well as the prohibition of torture, slavery and forced labour. However, these fundamental rights do not apply unrestrictedly, as they are subject to certain limitations.

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[11] 'Social Policy for Servicemen in Europe', *Euromil Publication*, No.1, Brussels 2001. EUROMIL presented its Accountability Report 2000-2004 and strategy document to its Congress in Budapest on 15 October 2004.

[12] The European Convention for the Protection of Human Rights and Fundamental Freedom was signed in Rome in 1950. Signatory states were the Member States of the Council of Europe. Monitoring compliance with the rights granted by the Member States is incumbent upon the European Court of Human Rights with its seat in Strasbourg, France.

a) Formulation of the Charter

The Cologne European Council was of the opinion that the draft charter of fundamental rights should be elaborated by an independent body, and established specifically for this purpose the Convention, as it is known. Members of this body included representatives of the heads of state and government, of the President of the Commission as well as members of the EP and the national parliaments. The Chairman of the Convention was former German Federal President Roman Herzog.

b) Relevant Fundamental Rights

The EU Charter of Fundamental Rights and the European Convention on Human Rights guarantee fundamental and human rights to EU citizens and citizens of the signatory states. In accordance with Art. 52 Para. 3 of the Charter, the fundamental rights of the Charter have the same meaning and scope of application as those human rights and freedoms granted by the European Convention on Human Rights. This is under the proviso that the rights deriving from the Charter and those of the Convention correspond. In addition to the above-mentioned fundamental and human rights, the Charter includes citizens' rights, freedoms, rights of equality, procedural rights as well as fundamental economic and social rights.

The Charter begins with a Preamble, followed by seven chapters.[13] The 'General Provisions' in Chapter 7 are significant for the scope of the fundamental social rights in particular:

1.   Freedom of Expression and Information

Art. 1 of the Charter contains the fundamental rights of freedom of expression and information. This includes the right to receive and impart information without interference by public authorities and regardless of frontiers. Freedom of expression and information are granted without any limitation, the reason being that Art. 11 of the Charter does not contain itself any limitation of these fundamental rights. However, limitations do arise from the general stipulations of Art. 52 of the Charter, which apply to all fundamental rights. In accordance with Art. 52 Para. 1 of the Charter, limitations on Art. 11 are in principle possible if they are provided for by law and if they respect the essence of freedom of expression and information.

In addition, this limitation must correspond to the principle of proportionality, i.e. it must be necessary and genuinely meet objectives of general interest recognised by the Union or the need to protect the rights and freedoms of others. Another limitation is derived via Art. 52 Para. 3 of the Charter from Art. 10 Para. 2 of the European Convention on Human Rights, which stipulates that limitations, at least on

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[13]   In the Constitution the articles were renumbered, and Articles 11 and 12 became Articles II-71 and II-72.

the freedom of expression, may be possible due to the reasons listed therein, such as national security, territorial inviolability and public security.

The stipulations contained in Art. 11 of the Charter do not present any progress for military and police personnel as compared to the stipulations contained in Art. 10 of the European Convention on Human Rights. Even if a limitation on the essence is only possible when the principle of proportionality is respected, the same scope of the respective fundamental rights as within the terms of the European convention on Human Rights is derived from the reference contained in Art. 52, Para. 3. The only new provision in Art. 11 of the Charter is the explicit inclusion of freedom of information in the list of fundamental rights.

2.   Freedom of Assembly and Association

Art. 12 of the Charter refers to the freedom of assembly and association. It stipulates that everyone has the right to assemble freely and peacefully with others and to do so at all levels, in particular in political, trade union and civic matters. This includes the right of every person to form and to join trade unions for the protection of his/her interests. The article also provides for the so-called right of association. In accordance with the wording of this article, the rights of assembly and association are guaranteed without any limitation. After long discussion, the fundamental question as to whether European social legislation also applies to members of the armed forces was recently resolved by the ECJ ruling that members of the armed forces are employees within the terms of European social legislation and are thus not excluded from it. The question now arises as to the applicability of Art. 12 of the Charter to servicemen.

Their rights of assembly and association are limited in accordance with Art. 52 of the Charter, where it is stipulated that limitations on the fundamental rights of the Charter must be made by law, respect the principle of proportionality and remain within the limits defined by the European Convention on Human Rights. Art. 11 of the European Convention on Human Rights contains explicit limitations for members of the armed forces, the police and the state administration, but the EU would be free to offer wider protection. EUROMIL concludes that the provisions of Art. 12 of the Charter do not represent any progress as compared to the already existing provisions of the European Convention on Human Rights. In order to put military personnel on an equal footing with other persons with regard to these rights, EUROMIL has proposed an amendment to Art. 12 of the Charter. A wording could be chosen stipulating that any limitation may only apply if it is indispensable in order to maintain state functions. Nevertheless, EUROMIL was well aware of the fact that the specific conditions arising from the nature of military and police duties have to be taken into account, in particular with regard to the right to strike and the right of association in the context of military operational issues. The European Code of Police Ethics, discussed earlier, approaches the problem in a positive manner by stating in paragraph 31, 'Police Staff shall as a rule enjoy the same civil and political rights as other citizens. Restrictions … may only be made when they are necessary for the exercise of the functions of the police in a democratic society…'.

3.   Limitations on Fundamental Rights

Art. 52 of the Charter is a so-called horizontal clause, which contains the conditions for limitation on fundamental rights. It is very broadly termed, as it does not contain any specific limits to these limitations, apart from the principles of proportionality and protection of the essence of rights and freedoms. It also refers to national legal reservations and 'practices', which in a legal sense are very difficult to define appropriately and which may differ from one Member State to the other. Therefore, it has to be anticipated that this provision does not guarantee a uniform application of the fundamental rights. It remains to be seen whether the jurisdiction of the national courts as well as that of the ECJ and the European Court of Human Rights will develop in this respect at all and, if so, how.

It should be remembered, however, that the Charter of Fundamental Rights concerns the relation between the citizen and the institutions of the European Union and does not extend the area of applicability of Union laws. At the insistence of the UK, this point was stressed in the wording of the horizontal articles 51 and 52 of the Charter which became articles II-111 and II-112 of the Constitution. As it is unlikely to see Union legislation affecting the position of servicemen, their protection primarily will remain a matter for national governments and parliaments.

Political Leadership

Security sector reform can only be inspired and guided by the political leadership.[14] Of necessity, it has to be a gradual process because it affects power relationships, particularly when the security sector has a role in controlling civil society. It will relinquish that role only when it is convinced that the stability of the state is ensured and change will be the outcome of an orderly process.

In the first years of independence from colonial rule or Soviet domination, the military and the police often had a positive image as state modernisers. That image dwindled when the predicted rapid development failed to occur and the military maintained a disproportionate influence on policy formation. In the West, and particularly among those involved in development co-operation, the awareness grew of the link between security and development: without security, much development assistance would be wasted. As a result, co-ordination between ministries of foreign affairs, development co-operation and defence acquired a new dimension aimed at forging a coherent approach towards specific countries and regions. This new emphasis went hand in hand with the insistence on 'good governance' in terms of respect for human rights and countering corruption. In Europe, the EU demanded that the candidate countries progressively integrate the European model into their own structures. Also, NATO continuously underlined that membership and cooperation should be based on shared values. The Stability Pact for South Eastern Europe set up a

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[14]   Dr Theodor H. Winkler, 'Managing Change: The Reform and Democratic Control of the Security Sector and International Order', DCAF Occasional Paper No. 1, Geneva, October 2002, p.10.

'Working Table on security issues' under the auspices of the OSCE in order to help facilitate the integration of the countries of the region into European and Euro-Atlantic structures. The agenda of the Table included issues of border security and the problem of trafficking in small arms but also the reform of the security forces. The Partnership Agreement signed by the EU with the countries from Africa, the Caribbean and the Pacific (ACP) in Cotonou on 23 June 2000 also focused much more on the political dimension of development than the previous Lomé Conventions. The new agreement explicitly made the link between development and resolution. On 11 April 2001 the declaration issued in the context of the EU Common Foreign and Security Policy dealt with this issue. In an annex, the European Commission pledged to play an increasingly active role in the security sector area by helping to improve police services, to promote conversion, disarmament and non-proliferation and to support human rights training for the entire security sector.[15]

How to Promote Civilian Influence

The purpose of this paper is to demonstrate that security sector reform is not only a matter of parliamentary control over the ministry of defence and the other services able to use force, but that it goes much deeper. It concerns their place in society and the way in which society impacts on them. The true mark of democracy is the meeting of top-down and bottom-up processes, which in the field of defence and security combine in strengthening the national consensus about vital interests and the way to protect them.

One tenet of democracy is the primacy of politics in a framework of the governmental obligation to reveal, explain and justify. Without transparency and a healthy debate about the level of ambition of the nation, defence will not be able to count on popular support. This is even more true under the present conditions in which it has become very difficult to quantify what the country needs in terms of capabilities. We have seen a shift from a threat-driven defence effort to a capability-driven one, but unfortunately the emergence of terrorism has changed the capabilities most needed. Transformation of the military towards the capacity to conduct network centric warfare has lost some of its glamour when experience in Iraq showed the indispensable quality of feet on the ground.

In all NATO and EU member countries, the need for democratic civilian control is widely acknowledged, but practice varies considerably. To make the generalised view of best practices more specific, the following recommendations are made:

- Legal and constitutional mechanisms which clarify the relationships between the head of state, the government, parliament and the armed forces in terms of the division of authority, command and subordination in both peacetime and

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15   Jane Chanaa, 'Security Sector Reform: Issues, Challenges and Prospects', *Adelphi Papers*, No. 344, Oxford: OUP for IISS, June 2002, p.19, 23-24.

the transition to war; establish the roles of the relevant institutions and also the status and rights of armed forces;

- Co-ordination between foreign and security policy-making structures and processes, recognising that security policy should be a part of foreign policy. This requires close co-ordination between the two government departments and a joint position in explaining and defending policy decisions. The best way to ensure this, apart from contact at the working level, is to structure periodic meetings of a sub committee of the Cabinet to prepare the government position. Among the issues to be decided in such an embryonic National Security Council is the positioning in multinational organisations (UN, OSCE, NATO, EU) and participation in concrete peace support missions. Foreign ministries have a tendency to promise more than the defence department considers feasible. Defence ministers feel the responsibility for the men and women in the services and take a harder view at the chances of success of an operation, its sustainability and the costs involved. Moreover, they have to persuade parliament that the risks incurred are acceptable in light of the necessity of the operation for the restoration of peace and security;

- A clear political primacy in the ministry of defence; the military being accountable to democratically elected members of parliament. This means that the military have no policy-making role of their own. Their professional advice should be carefully considered and the ministry should not engage in micro-management. This requires frequent and structured meetings within the department in which all services, both military and civilian, are represented. It is not always necessary to take decisions in these meetings and the minister may require more time to make up his mind. Most important, however, is that the ultimate decision is clear and properly communicated to all concerned;

- Substantive parliamentary oversight involving members of parliament trained in the techniques for and the responsibility of holding the military accountable. Usually there are few votes to be gained by being a spokesman on defence matters, but this may change with the increased relevance of the subject to the ordinary citizen, who is concerned about security on the streets and organised crime. Parliamentarians can enhance their expertise through participation in the assemblies of multilateral organisations (NATO, WEU, OSCE), which do not exercise democratic control in the strict sense of the word, but are important in their consensus-building role;

- There are no hard and fast rules for the number of civil servants in the ministry of defence. During the Cold War, the military occupied a disproportionately large number of positions to allow these persons to be available for transfer to the reserve units during mobilisation. In a professional army this argument hardly plays a role. In this regard, financial considerations favour civilians because the military are more expensive in salaries and retire earlier. Functions in which civil servants are indispensable are the directorates dealing with general policy (as distinct from General Staff) and financial control. They also should play a role, together with their military colleagues, in the procurement and personnel departments and this role is likely to

increase, because acquisition procedures and labour conditions are approaching practices in the civilian sector;

- The presence of expert professional staff in national parliaments to keep the members fully informed on key security issues and related data. Most parliamentary democracies have standing committees on defence, but their practice in scrutinising the budget is uneven. It is here that civilian expertise is most needed. The same applies to equipment decisions where experts can only judge the merit of alternative options. A number of parliaments indicate a limit in the financial cost of a project beyond which parliamentary assent is obligatory;

- The development of a cadre of security policy experts in the public domain who specialise in a range of security issues and are capable of generating public debate through their publications and newspaper articles. Most countries have institutes for strategic studies in their universities or as independent think tanks. Britain has Chatham House, RUSI and Kings College London; France has IFRI; Germany the Stiftung Wissenschaft und Politk; Italy IAI; the Netherlands Clingendael; Belgium IRRI, to mention only a few. At the international level, the International Institute of Strategic Studies in London, the Stockholm International Peace Research Institute and the EU Institute of Security Studies in Paris should be mentioned;

- Statutory audit structures to prevent corruption, fraud and abuse of public resources. If considerations of secrecy prove to be a limiting factor, provision should be made for internal auditing on the principle that no executive body can be its own auditor. These functions should be exercised by civilians;

- Transparency in the defence budget making process in order to prevent the military's threat perceptions from being driven by interest groups. A preferred scenario for procurement decisions is discussed in a separate paper. Here, the general point should be made that the military have an obligation to assess the threat carefully, but that it is a task of the politicians to judge and take responsibility for the allocation of resources. They have to balance the needs of defence with other governmental duties and measure them against the contributions of their allies and partners in NATO and EU where appropriate;

- Training and education in the armed forces about the role of the military in democratic society, including respect for human rights. This goes beyond the Geneva Conventions, which deal with behaviour in inter-state conflicts, and should include the conduct of personnel in peace support operations. In the words of Gareth Evans, today the duty of states includes a responsibility to protect, further sub-divided into responsibilities to prevent, to react and to rebuild.[16] The human rights issue is not only important for the military but also

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[16] 'The Responsibility to Protect', Report of the International Commission on Intervention and State Sovereignty, December 2001. Available at: http://www.iciss.ca/pdf/Commission-Report.pdf. See also 'A More Secure World: Our Shared Responsibility', Report of the Secretary General's High-Level Panel on Threats, Challenges and Change, December 1, 2004. Available at: http://www.un.org/secureworld/report2.pdf

for the police and other security services, which often are in closer contact with the population than the army;

- A fair and effective military justice system that enforces established standards of conduct and discipline and allows for complaint procedures. As the soldier becomes a 'citizen in uniform', civilian rules should apply as much as possible. Military discipline has its own rules and enforcement procedures, but criminal procedures should follow civilian law to the maximum extent possible.[17] Many countries have introduced an independent Ombudsman to hear complaints. An intermediate option is a military Inspector General who submits his report to parliament;

- Open debate does not arise by itself but has to be nurtured by inputs from civil society. Hearings are fine but only if they are organised to produce serious comment and alternative options. Debate can be structured by tasking governmental and nongovernmental bodies with the production of advisory opinions, which are published and provide a basis for an informed discussion. In this context, the Netherlands has developed two mechanisms which combine comment and advice. In the first place, every draft legislation after approval by the Cabinet is submitted to the Council of State, which is obliged to submit a report that might contain recommendations for change or even a negative opinion. The Cabinet remains entitled to propose the law to parliament, but has to explain why it did not follow the advice of the Council of State. The second mechanism rests in the functions of a Scientific Council for Government Policy and separate Advisory Council on International Affairs. Both are used to provide advice on longer-term issues. Their reports are made public, the Cabinet has to respond to them and its position might be debated in the relevant parliamentary committee or in a plenary session;

- The more transparency, the more debate, and the more the need for inter-agency coordination within the government. Outwardly, the government will have to speak with one voice, but establishing consensus on the contents of the message will not be easy, especially in federal systems. The first need is for aggregation: how judgements of individual agencies can be merged into a single picture which everybody can support but is still meaningful to base concrete policies on. Everybody knows examples of protracted turf-wars which were not resolved or led to anodyne assessments because everybody was hedging his bets. Therefore, a clear demarcation of responsibilities among the agencies concerned is required and a definition of who takes the ultimate decision and assumes responsibility for it;

- An open and informed national debate preceding major decisions on natural security and other military matters. The best way to encourage this is the publication of comprehensive White Papers, defining national interests, international obligations, the level of ambition and the capabilities needed to implement it. The parliamentary defence committee should organise hearings

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[17] In the Netherlands all criminal offences committed by military personnel are judged by a regular civilian court reinforced by a military expert.

of experts and non-governmental organisations. Its staff should make a preliminary analysis of the proposals made and the issues likely to be controversial. Press, radio and television are not normally slow in picking up such questions;

- The commitment of forces outside national borders should require broad endorsement by parliament. This is already the rule in several countries, including Germany and the Netherlands. In the Dutch case, an extensive checklist of criteria has been developed as a guideline for decision-making. In essence, these relate to the Netherlands' interest, if any, in a solution of a conflict, the participation of others, the chances of success and the likely duration;

- The argument that there might not be time to consult parliament does not hold much water. It applies to cases where nationals have to be evacuated from countries where a revolution has taken place or otherwise chaos prevails, but that exception would be justified and generally accepted. Moreover, in those cases the parliamentary leaders could be rapidly consulted. For other situations, the decision would be highly political and merits parliamentary approval. This is all the more necessary in view of the attention paid by parliamentarians to the risks involved and the safety of personnel. Governments have to then explain why the operation is necessary and the risks are not disproportional to the needs. Parliaments will have to get used to the fact that the military are dispatched precisely because there are risks involved. If not, the problem could be solved in other ways;

- Depolitisation of the army's role in society, but also minimum political interference in professional military matters. There are several sides to this issue. As explained earlier, the task of the army is not to serve the stability of a particular regime. Equally, we have rejected political micro-management. But do these arguments preclude membership of political parties or service organisations for military personnel? We have seen the arguments of EUROMIL for recognising the fundamental rights of all citizens, including those in uniform. They have a point. In practice, recognition of these rights is likely to be a function of the maturity of the democracy in the country concerned, removing the risk of a military take-over or undue pressure on the government. Obviously, military personnel should not have the right to strike, but they should be entitled to raise other aspects of their conditions of service in an organised manner. Pressure in this direction can only come from civil society;

- Civil society might be rather uncivil. Society is composed of many diverse elements, supporting different or even conflicting social and political courses of action.[18] In South Africa, we saw a remarkable process of national reconciliation, which is sadly lacking in many war-torn countries. In Bosnia, reform is conditioned and limited by the efforts to create a stable deterrence relationship between the Muslim-Croat Federation and the Republic of Srpska.

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[18] Jane Chanaa op. cit p. 52-54.

Yet, there is little or no dialogue and exchange between the security sector constituents of the three ethnic groups. As long as the feeling persists that the main enemy still is internal, coexistence will remain problematic. The only hope lies in a political rapprochement at the societal level, which will gradually reduce the importance of the military factor in the relationship.

Conclusion

Transparency is the key to democracy. It is the only way to have an informed debate on security questions and to achieve, as a result, public support for security policy. Obviously this debate should be generated in the political context prevailing at a particular time. Yet, it is clear that it can only be organised by civilians involving governmental bodies, parliament and civil society. The military are expected to make the necessary information available but not to dominate the debate. Transparency balances between freedom of access and protection of information. It also reflects the culture of decision-making and responsibility and may serve as a yardstick for the health of the society, the level of administrative effectiveness and the satisfaction of civil society and the business community.[19]

Transparency building depends on adequate nation-wide education on security issues which produces a community of professionals, both civilian and military. Comparison of best practices internationally will be a powerful incentive for higher standards. In this respect, the Consortium of Defence Academies and Security Studies Institutes, launched in 1998 by a joint US-German-Swiss initiative in the context of Partnership for Peace was most promising. Unfortunately, it lost focus and academic debate threatened to replace visionary thinking.[20] Similarly, the parliamentary assemblies of NATO, OSCE and WEU have an important role in consensus building between members of parliaments jointly working on reports and resolutions. Expert staff, through excellent reports, have greatly contributed to raising the level of information and knowledge throughout their membership, which extended to virtually all European countries.

The main conclusion of this chapter, however, relates to the changing role of the military as the main factor for improved civil-military relations and a larger civilian input in the formation and implementation of security policy. The primacy of politics over the military is an established and recognised essential element of Western democracy. It would be practiced fully in the midst of war fighting in a conflict involving national independence or territorial integrity, but in the modern security environment a state of siege or war is seldom declared. Today, the military, too, need civilian input to be able to function effectively.

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[19] Velizar Shalamanov, 'Transparency Needs More IT and New Education' in *Transparency in Defence Policy, Military Budgeting and Procurement*, Todor Tagarev (ed.). DCAF and G.C. Marshall, Bulgaria, 2002.

[20] Dr Theodor H. Winkler op. cit. p. 23. He advocated a broad platform including all security sector players.

Security policy has grown in scope and far exceeds the military dimension. The military should be the first to recognise that. What matters is a balance of trust, which gives its proper place to professional military advice. By nature, the ministries of defence and foreign affairs take a global view of the national interest, much more so than other government departments. Thus, they should be able to transcend parochial interests if they are to maintain their place in a democratic society.

The ultimate question is whether in the future middle and small sized countries should preserve a ministry of national defence. Perhaps we are moving in the direction of a ministry of national security which encompasses the entire security sector. The blurring of the borderline between internal and external security might be an argument for such a merger, which would cut out much duplication and turf wars. In any case, the internationalisation of security policy will require much more co-operation, if not integration, of all services throughout the spectrum of the security sector. It is bound to enhance the importance of civilian input into the process.

ANNEX

Article III-177 (ex Article 30(2) TEU)

1. Europol's mission is to support and strengthen action by the Member States' police authorities and other law enforcement services and their mutual co-operation in preventing and combating serious crime affecting two or more Member States, terrorism and forms of crime which affect a common interest covered by a Union policy.

2. European laws shall determine Europol's structure, operation, field of action and tasks. These tasks may include:
   (a) the collection, storage, processing, analysis and exchange of information forwarded particularly by the authorities of the Member States or third countries or bodies;
   (b) the coordination, organisation and implementation of investigative and operational action carried out jointly with the Member States' competent authorities or in the context of joint investigative teams, where appropriate in liaison with Eurojust.
   European laws shall also lay down the procedures for scrutiny of Europol's activities by the European Parliament, together with Member States' national parliaments.

3. Any operational action by Europol must be carried out in liaison and in agreement with the authorities of the Member States whose territory is concerned. The application of coercive measures shall be the exclusive responsibility of the competent national authorities.

Article III-178 (ex-Article 32 TEU)

A European law or framework law of the Council shall lay down the conditions and limitations under which the competent authorities of the Member States referred to in Articles III-171 and III-176 may operate in the territory of another Member State in liaison and in agreement with the authorities of that State. The Council shall act unanimously after consulting the European Parliament.

Chapter 4

Legislative Oversight of the Security Sector

Dr. Willem F. Van Eekelen

Introduction

The people of Georgia and the Ukraine have struck two resounding blows for democracy by not accepting the outcome of falsified elections. Their protests manifested unprecedented courage and perseverance in insisting on the application of European standards. Contrary to past experience they gathered steam instead of petering out, thus showing that there are new limits to what is accepted from corrupt governments. Under different circumstances, the people of Iraq were prepared to risk their lives in going to the polls in the first pluralistic elections in fifty years. Their quest for democratic self-expression did not fail to move even the most sceptical observer. On three occasions, the old saying was confirmed that although one might be able to fool some people some of the time, it is impossible to fool all people all the time. We are witnessing fundamental changes, which in Europe might mark the end of a process that started in Helsinki in 1975 with the adoption of new principles for the conduct among states and the way in which they treat their own citizens. Now that momentum has to be maintained. Democratic elections are enormously important in instilling a sense of confidence among the people, but in themselves they only represent the beginning of better accountability of the government. After the fall of communism, many countries in Eastern Europe fell victim to mafia practices and raging corruption, because people failed to understand that a market economy did not mean a free-for-all without any rules and regulations. Even some countries which recently acceded to the European Union still had to cope with the perverting effect of engrained corruption on their societies.

Good governance is the clarion call of the next phase. In a democracy, the task of a legitimate government is to reveal, to explain and to justify. Reveal what they are doing; explain why they want to do it and to justify it in debate with the elected representatives of the people. There is the accountability of the government on the one hand and responsibility and serious expertise of parliament on the other.

Throughout Europe practice varies and there is no single model. The basic notion that governments derive their legitimacy from the freely expressed vote of their

citizens is translated into many different parliamentary practices. Even the conceptual distinction of the three main functions of government – legislative, executive and judiciary – as defined in Montesquieu's *Trias Politica* – seldom resulted in a complete separation of powers. In many countries, the members of the executive also sit in parliament. In the US, the separation between legislature and executive is the most complete. The President has wide-ranging authority; his ministers (called secretaries) are not responsible to Congress. Nevertheless, it works, because of a complicated system of checks and balances affecting both legislation and budget appropriations. In France, the President of the Republic regards foreign affairs and defence as his special domain in which the cabinet, let alone parliament, has little influence. A common characteristic of western democracy, however, is its pluralistic character in which the people elect their representatives and have a choice between different political parties. In some cases, the decisions reached in parliament are subject to a referendum as a form of direct democracy.

Democracy is more than just democratic institutions. A democratic culture assumes a degree of common identity, tolerance and trust which makes it possible to accept that the opposition might win the next election. In a democracy, individuals and minorities feel secure because their fundamental rights are respected and protected by the rule of law. Democracy is a system in which lawmaking and governance are transparent, maximising opportunities for every citizen to voice his opinion and subject to quality control – ultimately through elections in which real and viable alternatives exist. Without opposition, the perspective of self-improvement would be lost. Democracy functions best when society is not overly polarised and a healthy middle class exists. It should not be limited to parliamentary elections every three or four years, but attempt to reach the citizens at all levels of governmental activities of interest to them. Thus, some form of decentralisation of the functions of government is essential, either to provinces, regions or below them to municipalities. For foreign affairs and defence, this poses a problem, for these issues concern the national interest as a whole and overarch local considerations. Therefore, the central government plays a dominant role in these fields and democratic control can be exercised only by the national parliament. Inevitably, this creates a certain distance between parliamentarian and voter.

The goals of modern security policy have become much wider than the traditional tasks of protecting independence and territorial integrity and increasingly focus on multilateral action in support of crisis management, the promotion of stability and, most recently, combating terrorism. Parliamentary scrutiny has to adapt to these changing circumstances in several ways. Security policy should be comprehensive and integrated in a coherent foreign policy. Dispatching soldiers on missions of intervention abroad, including the separation of hostile forces in ethnic or religious conflicts, puts heavier political and moral burdens on parliamentarians than the patriotic task of defence against aggression of the home country. Nevertheless, even under changing circumstances some general guidelines can be drawn for parliamentary control over defence policy, budget and equipment decisions.

Parliamentary Control

In principle, parliamentary control should extend to all sectors of government activity, particularly in terms of budget allocations. Nevertheless, it has to be admitted that security and defence have special characteristics. Ever since Plato the question was raised as to how to control the custodians. The army was a source of power for the sovereign, but also a potential threat. In feudal days, the King himself was the field commander and his vassals came to his aid with their contingents. When armies came to rely on mercenaries their loyalty depended on the extent their leaders were able to finance the campaign. All that changed with the advent of conscript armies which involved every citizen but also led to an officer's corps with its own professionalism, traditions and culture. The army became integrated in society, but the growing complexity in training, equipment and logistics caused a gap between political aims and military needs. The military by and large accepted the primacy of politics, but felt that their governments did not provide them with the means to carry out the tasks allotted to them. Conversely, politicians became increasingly concerned about the use of military power, both in terms of their control over the budget and on moral and legal grounds. The increasing destructive power of new technologies raised issues of deterrence, defence and protection of the civilian population. Recently, the pendulum came swinging back from conscript armies to volunteer forces in view of the difficulty to despatch conscripts on mission of peace support and intervention. Forming volunteer units among the conscripts could circumvent this problem, but even then questions remain. Will their service-time be sufficient to master the technological skills required? And, more importantly, is it fair to call up only a part of the eligible young men when the army no longer needs all of them?

One should speak of democratic control of the armed forces rather than civilian control. Of course, politicians should be civilians. After Stalin and Tito, only president Tudjman of Croatia wore a uniform as head of state and then only occasionally. The point is that civilian leadership is not necessarily democratic. In the Soviet Union, there was the primacy of politics. The Politburo decided policy and the ministers were executives. There was no democratic control. Which brings us to the next question. How deeply should democratic control be applied? Intelligence and military planning often do not lend themselves to full disclosure. In a crisis, rapid decision-making is of the essence and the actual conduct of operations should be left as much as possible to the military commands, once their terms of reference and rules of engagement have been clearly defined. In this respect, the dictum attributed to Clemenceau that 'war is too serious a matter to be left to the generals' requires some refinement. One should not construct a juxtaposition of military and civilians; it is the primacy of politics which matters. While it is true that the military have to be under democratic control – for such subjects as overall security policy, security requirements and the decision to use force – micromanagement is not a task for politicians. In particular, generals should accept the primacy of democratic politics and be held accountable for their conduct within their terms of reference. A successful defence policy relies heavily on a climate of mutual respect, recognition of professional competence and transparent decision-making procedures, which reflect military as well

as political inputs. Ultimately, politics will prevail, but the military must feel confident that their views have been taken into consideration.

The borderline between the delegation of authority on the one hand and responsibility and accountability on the other, is one of the crucial questions in modern democracy, accentuated by the flood of information coming from all sides: government, media, non-governmental organisations and pressure groups. It is a constant challenge to every parliamentarian to steer a steady course in the daily temptation to intervene on the basis of headlines in the morning papers. This challenge is even greater in security affairs where human emotions are easily aroused, often on the basis of incomplete information, but the decision to despatch soldiers in harm's way is a matter of life and death.

In a parliamentary democracy, the government – i.e. the Head of State and the Cabinet – functions under the control of parliament. Over the centuries, parliamentary powers have increased greatly. Originally, their function was to allow the princely ruler to levy taxes, which later developed into a balance – often uneasy – between rights and duties of the sovereign and his citizens. Today, they cover a wide spectrum which varies considerably among European countries, but nevertheless can be outlined as follows:

To provide support for the government on the basis of electoral party platforms or the agreement on which a coalition is formed. When a new government takes office and makes a policy statement (which includes defence issues), usually a vote of confidence is called or a motion of no-confidence debated.

Legislative authority on bills introduced by the government or individual members and accompanied by an explanatory memorandum. Drafts are considered in standing committees and, written questions asked. Sometimes hearings are organised. Approval is granted after a debate in plenary where amendments and motions are considered and which is concluded by a vote. Sometimes, it is allowed to give oral explanations of the votes cast.

Controlling authority over the executive which can be divided in political control (does the government still enjoy the confidence of the majority of parliament?), policy control (through oral and written questions or the more substantial means of interpolation to question a specific act of policy), budgetary scrutiny and finally accountability on the basis of reports from the Board of Auditors about the implementation of the budget. In cases where serious misconduct might have occurred, Parliament has the authority to hold a formal inquiry. A parliamentary inquiry resembles a court of law in so far as it can call witnesses and interrogate them under oath, seize documentation, etc.

Policy control through the right to request information, if used extensively, brings parliaments close to the executive function of government. In most Western parliaments, there is a tendency to move beyond control ex post to participation in the governmental decision making process even before the cabinet has tabled a formal proposal. In some cases, a pending governmental decision is even forestalled by anticipatory parliamentary action.

The Challenge

The challenge is to devise a method by which the constitutional role of the legislature can be exercised in a purposeful and professional manner. If a rigorous method is not formalised, parliamentary control is in danger of becoming political rhetoric, leaving too many opportunities for the bureaucracy and the military to go their own way. A model for a policy-making and review cycle could be as follows:[1]

Research on and assessment of problems and policy options:

- determining the entire range of external security problems facing a country: determining the need to define a policy to address those problems; and devising methods to identify priorities among the problems so defined; identifying methods, frameworks and processes for policy implementation, monitoring, review and scrutiny, and adjusting policy; building up information and data on policy options; and building up information and data on alternative methods of policy implementation;
- Examining policy alternatives: forecasts of alternative scenarios and assessment of the methods of implementing alternative policies; advanced research to examine the impact of alternative policies on each of the alternative scenarios; and analysis of the strengths and weaknesses of each policy and the opportunities they offer in advancing national security and society.

Decision making and implementation:

- deciding on policy and defining responsibilities, resources and time frames for implementation;
- selecting methods for policy monitoring and review and for carrying through a change or adjustments in policy; and
- defining decisions that would need to be taken in order to implement the policy, and setting objectives.

Policy evaluation and review:

- periodical scrutiny of the objectives and results; monitoring of effectiveness in terms of costs and benefits; and evaluation of the outcome to assess the effectiveness of implementation;
- review of policy implementation, methods, resources and priorities, and assessment of the impact of policy on problems; and

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[1] Ravinder Pal Singh (ed.), *Arms Procurement Decision Making*, Vol. 2, Oxford University Press, 2000, pp. 4-5.

- meta-evaluation-examining the evaluation process itself, to validate the objectives of policy, methods, assumptions and supporting data and processes.

Policy reassessment, adjustment or termination:

- decision on continuation of policy; corrections by the executive;
- decision on policy modification-major corrections and adjustments; and
- decision on termination of policy. A decision to stop the policy means initiating a new policy, which involves going back to stage 2.

What Constitutes the Security Sector?

A narrow focus on the conventional Western security actors such as armed forces, police and intelligence services, for instance, does not capture the diversity of security actors in other countries. In Africa, formations such as presidential guards and militia forces are common; while a whole range of private security actors are emerging because of the collapse of state security structures. Similarly, in the Central and Eastern European states there is a wide range of internal security forces, often linked to interior ministries, which rival the military in terms of numbers and influence.

In addition, it is also clear that a range of informal norms and practices that are closely shaped by national political, cultural and social circumstances influences the management of security policy in all countries, including the industrialised states. This is one reason for the complex array of institutions and interactions that affect the relationship between the organisations authorised by states to use force and those mandated to regulate these organisations and formulate security policy. The security sector consists of the following elements:[2]

Forces authorised to use force: armed forces; police; paramilitary forces; presidential guards; intelligence services (including both military and civilian agencies); secret services; coast guards; border guards; customs authorities; and reserve and local security units (civil defence forces, national guards, militias, etc.).

Security management and oversight bodies: presidential and prime ministerial offices; national security advisory bodies; legislature and legislative select committees; ministries of defence, internal affairs, foreign affairs; customary and traditional authorities; financial management bodies (finance ministries, budget offices, financial audit and planning units); and civil society organisations (civilian review boards, public complaints commissions, etc.).

Justice and law enforcement institutions: judiciary; justice ministries; prisons; criminal investigation and prosecution services; and customary and traditional justice systems. (Unwritten, informal norms, stemming out of the local, tribal and clan traditions, culture and beliefs, are often more powerful or obligatory than the written, formal rules and norms established by central state authorities.)

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[2] Dylan Hendrickson and Andrzej Karkoszka, 'The Challenges of Security Sector Reform', *SIPRI Yearbook*, 2002, p. 179.

Non-statutory security forces: liberation armies; guerrilla armies; private bodyguard units; private security companies; and political party militias. Parliamentarians will have to take a comprehensive look at the regulation of these institutions and their behaviour in practice. The security sector is part of a wider societal and political context and cannot function effectively if the administrative and legal framework is fundamentally weak or corrupt.

Why Defence is Different[3]

In all areas of government a degree of tension between the executive and the legislators is inevitable, in view of their respective functions. There must be a division of power and responsibility that, on the one hand, ensures effective action by the executive without a potentially dangerous accumulation of power and, on the other, ensures popular support through legislative involvement but without risking paralysis of action. Establishing this balance between 'efficient' and 'democracy' is crucial to ensuring effective government and is particularly salient to the field of defence.

The need to establish such a balance is both more important and more difficult in the field of defence than in other fields of activity. Defence is not just another spending department. It brings with it certain characteristics and qualities that complicate the relationship between the executive and the parliament and increase the inherent potential for friction between the two branches. There are several reasons why defence makes things more difficult.

First, because defence concerns the security of the nation and is the main instrument through which the state exercises its monopoly of legitimate force. Thus, it involves decisions to commit lives and expenditure for the nation's defence. Decisions of this magnitude impose an additional burden of responsibility on the political leadership to get things right and to ensure that decisions and policies enjoy popular support.

Second, because defence involves the maintenance of armed forces. In any society, the military assumes a special and distinctive position, chiefly as the principal possessor of weapons and armaments. Furthermore, the military also represents a highly-organised and disciplined group, knit together by traditions, customs and working habits; but above all, by the need to work together and to depend on each other in times of crisis and conflict – a dependence which can literally mean the difference between life and death. Such dependence builds strong bonds and loyalties and requires a degree of cohesion and coherence that few other professionals can claim. It is these qualities – discipline, dedication and loyalty – that make the military profession different, and in some ways, distinct from society.

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[3]   This section draws on Simon Lunn's chapter, 'The Democratic Control of Armed Forces in Principle and Practice', in *Oversight and Guidance: The Relevance of Parliamentary Oversight for the Security Sector and its Reform*, Hans Born, Philipp H. Fluri and Simon Lunn (eds.), Brussels/Geneva, 2003. Available at:
http://www.dcaf.ch/_docs/sourcebk_ssr/Lunn.pdf

There are those that argue that the changing nature of war and societal trends are diminishing these unique characteristics. This is not the place to discuss this issue in detail except to suggest that these values continue to provide the core of 'soldiering and what makes the military function in the armies of most Alliance countries'.

In addition, the highly organised and structured character of military life tends to give military men a rather straightforward and uncomplicated view of the world, a view that contrasts and is often at odds with the more complex, and by comparison, apparently 'murky' world of politics. The terms concession and compromise, essential to the balancing and reconciliation of competing interests in domestic and international politics, do not sit easily with the clarity and directness of assessment and decision which are essential characteristics of an effectively functioning military. This can lead to very different perceptions of the same problem and can represent a source of friction between the military and political sides. At a minimum, such friction is constrained to grumblings in the officers' mess over the doings of 'our political masters'. At the most extreme, it can lead to military interference with, or defiance of, the government of the day. When such episodes have occurred it has been frequently because the military men have suggested an allegiance to a higher calling – the nation, the constitution – than the transient government of the day.

Most of our governments have at some time in their history experienced in differing degrees a 'turbulent' military. Several members of the Alliance – Turkey, Greece, Spain and Portugal – have experienced such problems in their relatively recent past.

Today, none of the established democracies have serious worries on this issue. The respective roles of the military and civilians are well established and understood – albeit, as will be seen later, there are some areas where the dividing line is increasingly easily blurred. The significance of democratic control lies elsewhere – in the fact that in any society the military represents a strong corporate body, capable of exerting considerable influence over policy and the allocation of resources. The significance of the democratic control of armed forces is to ensure that the armed forces and their requirements occupy an appropriate place in the nation's priorities, that they do not absorb an undue proportion of the national resources, nor exert an undue influence on the development of policy.

For these reasons, it is important to ensure that defence is organised and managed in a way that maximises military professionalism and efficiency, but also guarantees political control and popular support. There is an additional dimension which makes this a difficult goal to achieve. There is a tendency for the military to believe that military things are best left to the military men. This is understandable as the business of the armed forces is to prepare for conflict and the potential loss of life. This makes the intrusions of outsiders or non-professionals a sensitive issue.

Parliamentary Practice

Conceptually parliament is sovereign and authorises and scrutinises the defence budget. It enacts legislation and holds the executive accountable for the development, implementation and review of the security and defence policy. It is also involved in

declaring and lifting a state of emergency or war. Parliamentary practice, however, is far from uniform.

Parliaments of NATO countries exert varying degrees of influence and do so in different ways. All have Standing Committees on Foreign Affairs and Defence, many also on European Affairs and Intelligence. Germany probably has the closest scrutiny of the defence budget. France works with a rapporteur whose findings are subject to a general debate. The Netherlands' legislative process contains several rounds of written comments and questions from all parties to which the government responds extensively before an oral debate can take place.

The distinction is between those who have formal powers of consultation and decision, and those whose influence is indirect through their ability to hold the executive accountable albeit 'after the event'. At one end of the spectrum is the US Congress, which, under the separation of powers, holds the Department of Defence firmly accountable, often in excruciating detail. Both Senate and the House of Representatives and their members have unparalleled resources in terms of staff and supporting resources.

At the other end of the spectrum is the British Parliament, whose direct oversight consists of voting the defence budget as a global figure once a year, plus various debates. The Government does not have to obtain parliamentary approval for specific expenditure decisions. Parliament exerts little influence over the development of the British defence budget, which rests firmly in the hands of the executive. Again, this relationship is a function of British history and the development of a strong executive depending on a highly professional and relatively insular civil service.

The function of the British Parliament and its select Committee on Defence has to be seen in a different context. It plays a major role in informing public opinion and making defence more transparent, through focused hearings and reports. Likewise, the national Audit Office, which reports to parliament, keeps the government on its toes by in-depth assessments of various programmes looking specifically to see that expenditure has been used effectively.

Most other parliaments exert considerably more direct influence than the British but fall short of the Congressional model. The German Bundestag, the Netherlands and Danish parliaments offer more appropriate models as they enjoy formal consultative powers on issues such as equipment purchases and force deployments.

Within this overall distinction of direct and indirect influence, parliamentary activity can therefore be grouped into three broad areas: accountability, oversight and transparency.

a) Accountability

All parliaments hold their government accountable through the annual voting of the necessary funds, whether this is the end of a long process of examination or the merely formal endorsement. Whatever the model, the 'power of the purse' requires every government to explain and justify its expenditure demands. Accountability is also achieved through hearings or the establishment of special committees to look into

specific issues. Examples of the latter were the investigation by the Canadian parliament into the conduct of Canadian soldiers in Somalia, and the enquiry held by the Belgian parliament into the events that led to the deaths of Belgian peacekeepers in Rwanda.

b) Oversight

The crucial issue is the degree to which oversight translates into real influence over the decisions of the executive. Parliamentary authorisation is an important instrument of influence. In many countries, parliamentary authorisation is required for the purchase of major weapon systems, which in effect equates with participation in the decision.

Several Alliance parliaments have the constitutional requirement to be informed on the deployment of forces abroad, a few have the right to participate through formal authorisation. The new missions will increase the demand for parliaments to be kept informed on a more time urgent basis and to be consulted on the terms of deployment.[4] This will further test the balance between democracy and military efficiency, similarly, the use of force in conditions short of war. The air campaign against Yugoslavia and the recent operation in Afghanistan reflect this need. However, in all Alliance countries, irrespective of the formal powers of consultation, parliamentary support is a precondition for involvement in such contingencies.

Most parliaments also have the responsibility to ratify treaties, including obviously NATO enlargement. The real question is how far parliaments should intrude into the making of defence policy and the running of the armed forces, for example: should they be informed or consulted on operational matters; or on development of strategy and doctrine; or on procurement decisions?

Again, the question arises of the dividing line between things military and political. As Simon Lunn concluded, common sense suggests that there are many areas where parliament should not be directly involved in telling the military how to do their business. On the other hand, parliament should be kept fully informed through regular and timely consultation; and all areas should be open to parliamentary oversight and scrutiny, the executive should have the flexibility to exercise power responsibly but must always be mindful that parliament is watching.

c) Transparency

Parliamentary debates and reports help make defence more transparent and increase public awareness of defence. They play an important role in building the public

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[4] For a comparative review of the powers of parliaments in PSOs, see Hans Born and Marlene Urscheler, 'Democratic Accountability and Parliamentary Oversight of Multinational Peace Support Operations: Powers and Practices of Parliaments in 17 Countries', paper presented at 'The Fourth PCAF Workshop Strengthening Parliamentary Oversight of International Military Co-operation / Institutions in Euro-Atlantic Area', Brussels, 12-14 July 2002. Available at:
http://www.dcaf.ch/news/past_2002/ev_brussels_02071214_BORN_URS.pdf

consensus essential for defence. Parliamentary work in defence should form an important part of a general security environment and the creation of a defence community in which security is freely and openly discussed and ceases to be the property and prerogative of a few.

Discussion of the role of parliaments would not be complete without a mention of their role in the broader context of civil-military relations. Parliamentarians form a natural link between the armed forces and the society. Many parliamentarians have particular connections through having military facilities or defence industries in their constituencies or because they themselves have a military background. Defence committees are frequently active in looking after the welfare and rights of soldiers.

What then are the obstacles to effective parliamentary involvement? Whatever the model and degree of involvement, parliamentary effectiveness depends on parliamentarians being well informed and knowledgeable. However, again the unique characteristics of defence make the acquisition of the required competence problematic.

As a subject, defence has always lent itself to both secrecy (in the sense that the provision of adequate information has often been limited for reasons of national security) and exclusivity. With the passing of the Cold War, this factor has become less inhibiting but confidentiality still tends to limit the flow of essential information to a qualified few. Frequently, the executive is unwilling to make available the required information, on the grounds of its sensitive nature. Membership of international organisations, such as NATO, is often used as a reason to withhold information due to the rules of the organisation, which inevitably always works at the level of the most security conscious. Parliaments deal with the issue of confidentiality in different ways. Most work on a 'need to know' basis, albeit that it is the executive that decides 'the need'. Some hold closed hearings to satisfy the requirement.

Specific Tasks for Defence Committees

On security policy:

- to examine and report on any major policy initiative announced by the ministry of defence;
- to report annually on the ministry of defence's performance against the objectives of the national military/security strategy;
- to periodically examine the defence minister on his/her discharge of policy responsibilities;
- to keep under scrutiny the ministry of defence's compliance with freedom of information legislation, and the quality of its provision of information to parliament by whatever means;
- to conduct inquiries and report to the parliament on any issues raising special concern (as can happen in Belgium, Canada, Germany, Hungary, Italy, Norway, and others, though it is not in the authority of the committee in countries such as Poland and Turkey);

- to examine petitions and complaints from military personnel and civilians concerning the security sector.

On legislation:

- to consider, and report on, any draft legislation proposed by the government and referred to it by the parliament;
- Parliament should decide the size, composition, structure and the medium and longer-term development of the armed forces. It should also adopt (or take note of) defence White Papers or similar documents, laws on the legal status of military personnel (and, where applicable the rights of conscientious objectors), recruitment, promotion and career perspectives;
- to consider international or regional treaties and arrangements falling within the area of responsibility of the ministry of defence, and to draw the attention of the parliament to those which raise particular questions of policy requiring debate or other consideration: ratification or adhesion, corresponding policy and legislation, budgetary appropriations;
- if appropriate, to initiate new legislation by asking the minister to propose a new law or by drafting a law itself (as is the case with the committees on defence or national security of Belgium, Canada, Hungary, Italy, Norway, Poland, Turkey and others).

On expenditure:

- To examine, and report on, the main estimates and annual expenditure of the ministry of defence;
- To consider each supplementary estimate presented by the ministry of defence and to report to the parliament whenever this requires further consideration;
- To report periodically on the impact of efficiency savings on the running cost of the ministry of defence;
- If necessary, to order the competent authorities to carry out an audit.

On management and administration:

- To consider the reports and accounts of each branch of the armed forces and to report periodically on whether any matters of particular concern are raised;
- To consider and, if appropriate, to take evidence and report on each major appointment made by the relevant executive authority (leading military commanders, top civil servants);
- To consider the internal organisation of the defence sector, eventually through external bodies relating to the parliament (e.g. ombudsman), and to draw the attention of the parliament to possible malfunctioning.

Judicial Aspects

The position of the soldier as citizen in uniform is different from his civilian counterpart in many respects. In the implementation of his duties he runs larger risks which imply that his life might be at stake. He has to obey (legitimate) orders and is subject to military discipline which is far stricter than labour conditions in any other profession. In the current security environment, the priorities of the military concern less the defence of the independence and territorial defence of the state but much more the restoration of law and order abroad. Paradoxically, his profession has become more dangerous. During the Cold War, he was faced with annihilation once the balloon went up, but the probability was low. Today, the individual soldier is more exposed in peacekeeping and peace enforcement operations and takes greater responsibility for the use of force in complex situations where the enemy might be all around him. In addition, he has to spend a considerable time of his employment away from home.

In return for these special circumstances, the soldier is entitled to have his status firmly embedded in the laws of his country. There should be laws regulating the conditions of employment of the volunteer soldier, the reserves (including the conditions for call-up) and, where applicable, the conscripts. These laws and regulations should deal with everything where the legal position of the military differs from the status of a civil service. In particular, these concern questions like pay, pensions, complaint procedures, military discipline and penal law and compensation for injury or death. On pay, allowance is made for service abroad or extremely dangerous missions. On pensions, the military are in a special position, because they usually retire earlier than civil servants, and arrangements have to be made for the intervening period. In some countries, a soldier has to leave the service when he is not promoted within a certain time-span (the 'up or out' system), but then should know how his financial position will look.

Military discipline and penal law is a chapter apart. As a general principle, the commanding officer is authorised to administer punishment, but the scope of his action is limited by three factors which vary from country to country. The first is a limitation of the sanctions he is allowed to impose, the second is the right of appeal for the punished soldier to the next higher level in the chain of command, and the third obliges him to refer crimes specified in the military penal code to a court-martial. The commanding officer will have to report the cases to higher authority, who might decide to call for a court martial even when he already has imposed a disciplinary sanction.

It is a matter of debate whether all criminal acts committed by a military person will have to be dealt with by a military court. In most countries, the law of the home country applies to the military even when the crime is committed abroad. Here the law follows the flag. If the military is stationed abroad, a 'status of forces' agreement will be concluded regulating this jurisdiction. Whether he/she will be tried by a military or a civilian court depends on the legislation of the home country. In the Netherlands, the military penal code only applies to crimes affecting the primary task of the armed forces. For all other crimes, the civil penal code applies. All cases relating to military personnel are referred to a civilian court which for these cases sits in a special configuration of two civilian judges plus one military officer.

Military courts have the great disadvantage of being questioned on their impartiality and independence.[5] Their judges are part of the military establishment and might be prone to internal pressures affecting their employment and career prospects. As a result, military courts have been disbanded in several countries. Norway did so as early as 1955 for the utilitarian reason that the number of criminal cases was too small to warrant a separate judiciary. In France, the Mitterrand government abolished them also, but retained military courts for troops stationed abroad and for the navy when outside French territorial waters (who otherwise could not be tried under the civilian penal code). Germany and the Netherlands resolved the problem of specialisation by establishing military chambers of a few civilian courts to handle offences by military personnel. Judges in these chambers undergo additional training in military criminal law and regulations related to the armed forces.

The question of an independent inspectorate is a delicate one in any organisation, but especially in a closed organisation like the armed services. The service chiefs are likely to regard it as nosy interference in their internal matters. Nevertheless, it proves to be an essential element in a democracy. The minister of defence needs independent advice within his department to be able to judge whether his policies are implemented faithfully and the level of management is up to modern standard. This requires an inspector general of a rank equivalent to that of the service chiefs and with the authority to conduct surprise inspections. He should also be able to conduct inquiries at the request of the minister, for example in cases where allegations of scandal have emerged in the media. The availability of an independent report, even if it is prepared within the department, enhances trust in the political management of the ministry. Cases of corruption are better handled by the external governmental Court of Auditors, but internal procedures should be made transparent in order to minimise the chances of fraud.

An increasing number of countries are instituting an Ombudsman to deal with complaints from the public regarding decisions, actions or omissions of public administration. The holder of this office is elected by parliament or appointed by the head of state or government by or after consultation with parliament. The role of the ombudsman is to protect the people against violation of rights, abuse of powers, error, negligence, unfair decision and maladministration in order to improve public administration, and make the government's actions more open and the government and its servants more accountable to members of the public. The office of ombudsman may be enshrined in the country's Constitution and supported by legislation, or created by an act of the legislature.

To protect people's rights, the ombudsman has various powers:

- to investigate whether the administration of government is being performed contrary to law or unfairly;

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[5] An interesting analysis is presented by Jovan Lj. Buturović, 'Military Courts and Human Rights' in *Protection of Human Rights in the Army and the Police*, Centre for Civil-Military Relations in Belgrade, 2003, pp 101-120.

- if an objective investigation uncovers improper administration, to make recommendations to eliminate the improper administrative conduct; and

- to report on his activities in specific cases to the government and the complaint, and, if the recommendations made in a specific case have not been accepted by the government, to the legislature. Most ombudsmen also make an annual report on their work to the legislature and the public in general.[6]

The Ombudsman makes recommendations for change and usually cannot make binding decisions. Nevertheless, the fact that his findings are made public is a powerful factor in favour of their implementation. This also applies to the fewer cases where a separate Ombudsman exists for defence. Under different names such an official functions in Australia, Canada, Finland, Germany, Portugal and Sweden. In the German case, the Parliamentary Commissioner for the Armed Forces is a member of the legislative with unlimited access to all defence installations. His double task is to safeguard the basic rights of the members of the armed services and to assist the Bundestag in exercising parliamentary control. In this case, however, he cannot disclose his findings to the general public, but his function has served as an important connection between parliament and the defence establishment.

Norm Setting in the OSCE

The Conference of Security and Co-operation in Europe started a political consultative process incorporating all European states and the US and Canada. It is based upon the Helsinki Final Act of 1975 which took three years to negotiate and formulated important principles for conduct among states. In addition, it developed confidence-building measures, especially in the politico-military field, in the midst of the Cold War and contributed to respect for human rights and fundamental freedoms. Initiated by the Soviet Union as an attempt to freeze the status quo in Europe, including the division of Germany, the provisions of the Final Act became a support for all those who wanted change and a return to democratic principles. The communist countries could no longer object to a discussion of the treatment of their own citizens on the grounds that this constituted interference in their internal affairs. Equally important was the admission by Moscow that all peoples had the right freely to decide their political status, both internally and externally.

On 21 November 1990, the CSCE summit adopted the Charter of Paris for a new Europe, establishing the Council of Foreign Ministers as the central body for regular political consultations, a preparatory Committee of Senior Officials (in 1994 renamed Senior Council), a Conflict Prevention Centre in Vienna and the Office for

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[6] *The International Ombudsman Institute Information Booklet* quoted in *Parliamentary Oversight of the Security Sector: Principles, Mechanisms and Practices*, Hans Born, Philipp Fluri and Anders Johnsson (eds.). Handbook for Parliamentarians No. 5, DCAF-IPU, 2003, p. 90-93. Available at:
http://www.dcaf.ch/oversight/proj_english.cfm?navsub1=12&navsub2=3&nav1=3

Democratic Institutions and Human Rights (ODIHR) in Warsaw. In June 1991, the first meeting of the Council took place in Berlin and agreed a mechanism for consultation and co-operation with regard to emergency situations in the CSCE area, which was used in respect to former Yugoslavia and Nagorno-Karabakh.[7] Subsequently, all independent states emerging from the former Soviet Union were invited to join. The Helsinki Follow-up Meeting of July 1992 strengthened the CSCE institutions by establishing a High Commissioner on National Minorities (first Max van der Stoel from the Netherlands and currently Rolf Ekeus from Sweden) and developing a structure for early warning, conflict prevention and crisis management including fact-finding and rapporteur missions. A few months later, in December 1992 in Stockholm, the Council of Foreign Ministers adopted a Convention on Conciliation and Arbitration. In 1994, the Budapest Summit turned the CSCE from a conference into an organisation, to be known as OSCE. A Permanent Council was established, meeting in Vienna, as the regular body for political consultation and decision-making. Finally, in 1999, in Istanbul, a Preparatory Committee and an Operations Centre were created to plan and deploy OSCE field operations.

The OSCE continued its important work on arms control and Confidence and Security Building Measures. At the opening of the CSCE Summit in Paris in November 1990, 22 members of NATO and the (then) Warsaw Pact signed the Conventional Forces in Europe Treaty (CFE) limiting conventional armaments from the Atlantic Ocean to the Urals. Two years later, in Helsinki CFE-1A was signed which introduced limitations on personnel and additional stabilising measures. At the same time, the Forum for Security Co-operation in Vienna was established under whose auspices a security dialogue was to be promoted and negotiations on arms control and CSBM now take place. Several 'Vienna Documents' were negotiated and the latest one, in 1999, constituted the most comprehensive politically binding document in CSBM's in Europe. In 1999, in Istanbul, the Adapted CFE Treaty was concluded, which now has 30 signatories, but ratification has been made dependent upon Russian troop withdrawals from Georgia and Moldova / Transdnjestria.

The Code of Conduct

The OSCE Code of Conduct, agreed at the Budapest summit of 1994, deserves more attention than it usually gets, because it embodies the progress made since the Final Act of Helsinki. In 1975 a battle of wits was raging between two incompatible systems and there was little factual Co-operation. In 1994, the OSCE made good its objective of encouraging 'norms of responsible and co-operative behaviour in the field of security'. It confirmed the comprehensive concept of security, relating the maintenance of peace to the respect for human rights and fundamental freedoms. It also linked economic and environmental co-operation with peaceful inter-State relations (§2). The signatories expressed their conviction that security is indivisible and that the security of each of

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[7]   The CSCE came close to peacekeeping in Nagorno-Karabakh. At the Budapest Summit of 1994, member states declared their political will to provide a multinational peacekeeping force following agreement among the parties for the cessation of armed conflict.

them is inseparably linked with the security of all others; they would not strengthen their security at the expense of the security of other States (§3). They would consult promptly with a State seeking assistance in individual or collective self-defence (§5), but at the same time recognised the sovereign right of every participating State to determine its own security interest (§10) and to belong or not to belong to international organisations or to maintain neutrality (§11). Each State would maintain only such military capabilities as were commensurate with its security needs (§12) and determine them on the basis of national democratic procedures (§13). The stationing of armed forces on the territory of another participating State would be allowed in accordance with their freely negotiated agreement as well as in accordance with international law (§14).

The Code of Conduct broke new ground by devoting an entire section (VII,§§20-33) to the democratic control of military, paramilitary and security forces, deeming it 'an indispensable element of stability and security'.[8] States would clearly define the roles and missions of such forces (§21), provide for legislative approval of defence expenditures (§22), ensure that its armed forces were politically neutral (§23), guard against accidental or unauthorised use of military means (§24), ensure that recruitment was consistent with human rights and fundamental freedoms (§27), reflect in their laws the rights and duties of aimed forces personnel (§28) make widely available the international humanitarian law of war (§29) and instruct its personnel that they were individually accountable for their actions (§30) and that the responsibility of superiors did not exempt subordinates from any of their individual responsibilities (§31).

The next section, VIII, stated the obligation to command, train and equip armed forces in ways consistent with the Conventions of The Hague and Geneva and the 1980 Convention in the Use of Certain Conventional Weapons (§34), to ensure that defence policy and doctrine were consistent with international law (§35) and that internal security missions were assigned in conformity with constitutional procedures (§36). Participating states would not use their armed forces to limit the peaceful and lawful exercise of their human and civil rights by persons as individuals or as representatives of groups nor to deprive them of their national, religious, cultural, linguistic or ethnic identity.

The Code of Conduct came into force on 1 January 1995 as a politically binding document. Each state would provide appropriate clarification regarding its implementation on the basis of a questionnaire adopted by the Forum of Security Co-operation in 1998. In their extensive analysis of the Code, Victor-Yves Ghebali and

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[8] The issue was not entirely novel to the OSCE. In the Copenhagen Documentation the Human Dimension of 29 July 1990, it was recognised that the rule of law required, among many other elements that "military forces and the police … be under the control of, and accountable to, the civil authorities" (par. 5.6). A year later, in the Moscow Document of 3 October 1991, some general obligations were agreed to ensure that the security forces are subject to the effective direction and control of the appropriate civil authorities (par 25.1) and to create effective legislative supervision (par.25.3). See Victor-Yves Ghebali and Alexander Lambert, *The OSCE Code of Conduct on Politico-Military Aspects of Security: Anatomy and Implementation*, Martinus Nijhoff, Leiden, 2005, p. 420.

Alexander Lambert summarise the 'how' of the democratic control of armed forces in four points:

- The primacy of democratic constitutional civilian power over military power;
- The subjection of armed forces to the norms and prescriptions of international humanitarian law;
- Respect of the human rights and fundamental freedom of members of the armed forces;
- Regulation of the use of aimed forces for internal security purposes.

The two authors have taken a comprehensive look at the answers provided to the OSCE questionnaires, which they could not attribute to the responding countries by name. They concluded that the answers had been dominated by the provision of factual information on institutional and formal/legal information. The information submitted showed that most of the participating states have established democratic standards of civil-military relations by amending the relevant constitutional and legal provisions. Interestingly, while in the established and traditional democracies, the principle of the democratic control of armed forces is usually not enshrined as such in a constitutional and legal framework, some of the emerging democracies from Central and Eastern Europe have adopted legal provisions on democratic and civilian control.

However, the measures taken by the emerging democracies generally referred to the so-called 'first-generation measures of security sector reform" such as the introduction of democratic civil control of the armed forces. Compared to this, little information was exchanged with regard to the implementation of "second-generation reforms',[9] as well as on the strategies through which the participating states aim at effectively implementing and applying those norms in the long run. Individual national reports actually indicated that further institutional measures were necessary at parliamentary level.

There is a certain trend within a couple of participating states to continuously 'civilianise' their defence ministries and also other (formerly militarised) bodies of the security sector, but civilian control alone is not sufficient to ensure 'democratic political control'. Some of the participating states, especially the established democracies, have therefore emphasised the relevance of both parliamentary and civilian control of the armed forces at all times. Many of the national reports underscored that they had a civilian minister of defence. While some of the established democracies underlined that this had been established a long time ago, the emerging democracies have adopted relevant legislation only recently. Another trend amongst the emerging democracies is to progressively enlarge the number of civil servants in ministries of defence.

A majority of the participating states have reported on the competencies and responsibilities of the constitutionally-established authorities, including the parliament;

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[9]   Second Generation Security Sector Reform includes the training and education of both military and civilian security sector personnel, human resource management issues, as well as the engagement of civil society actors in the reform process.

the judiciary; the government, the president/head of state and, in particular, the ministry/minister of defence and the chief of general staff. Their reporting clearly shows that some of the emerging democracies from Central and Eastern Europe tend to 'copy Western-style standards of civil-military relations'. Not only did they submit similar factual information to that of the established democracies, but also reported on the adoption of specific legislation providing for the democratic control of armed forces.

One of the newly admitted NATO countries underscored that the principle of the democratic control of armed forces was one of the fundamental principles of a democratic society and firmly established in the Constitution, providing for a clear division of responsibilities among the main aspects constitutional authorities. The principle of the democratic control of armed forces was further elaborated in its Defence Law according to three main aspects: Legislative (parliamentary) control; Control of the executive authority; Control by the citizens. Since the report has been exemplary in its kind and even more comprehensive and detailed than those of many established democracies, it was compiled in a table, which has been reproduced as annex 1 to this chapter.

Few countries have provided information on how they deal with existing tensions between civilian and military leaders. One established democracy, however, noted in this respect, that tensions between the president ad parliament are usual in civil-military relations. Another country also underlined that the national legal framework ensures a considerable autonomy to the Chief of Defence Staff, both with regard to accountability and operational requirements. While he normally reports to the defence minister, he can report directly to the prime minister. The chief of defence staff has even a degree of independence from the prime minister and is independent of the latter and even of parliament in situations of 'aid to the civil powers' (for assistance in national civil or humanitarian disaster situations) where he has authority to respond immediately to requests from the civilian authorities of the provinces.

The Code has now been in effect for ten years and has, undoubtedly, served a useful purpose. It constituted an unprecedented normative document with has had an impact on the way national governments should conduct themselves. Nevertheless, it had several shortcomings:

- it did not deal with the judicial branch of Government;
- there was no concept of the soldier as a citizen in uniform with rights and duties;
- it did not contain a provision of non-recognition of a usurper government;
- there was no linkage with the Vienna documents on Confidence and Security Building Measures;
- it was weaker than the Geneva conventions on humanitarian law;
- it was weak on paramilitary forces and did not regulate these use of force during an emergency;
- the questionnaire did not contain an obligation to provide information on the domestic use of force;

- there were no operative provisions on intelligence services and the police.

In spite of these deficiencies Section VII on intra state conduct remained a most innovative contribution to the democratic control of the security sector. The 2003 information exchange added a new item on the roles and missions of armed forces in preventing and combating terrorism. In 2004, information on defence expenditure was added. This has changed the focus of the Code away from democratic control. As a means to restore the balance, it has been suggested to adopt a separate code of conduct on terrorism.

A New Security Agenda

The growing number of issues that are becoming part of the security agenda include conflict prevention, democratisation, human rights protection and development. More specifically, short-term objectives include improved management of security expenditure, negotiating the withdrawal of the military from a formal political role, dissociating them from an internal security role and demobilising and reintegrating surplus personnel. All these may be grouped under the following categories:[10]

- Professional security forces. Professionalizing encompasses doctrinal and skill development, technical modernization and an understanding of the importance of accountability and the rule of law;
- Capable and responsible civil authorities. The relevant civil authorities in the executive and legislative branches of government need to have the capacity to develop security policy and to manage and oversee the security sector;
- High priority to human rights protection. Respect for human rights must exist among civilians as well as members of the members of the security forces;
- Capable and responsible civil society. Civil society should have the capacity to monitor the security sector, promote change and provide input to government on security matters;
- Transparency. Although some security matters require confidentiality, basic information about security policies, planning and resources should be accessible both to the civil authorities and to members of the public;
- Conformity with international and internal law. The security sector should operate in accordance with international law and domestic constitutional law;
- Regional approaches. Countries within a specific region share many security problems and the security of individual countries and individuals within those countries would benefit from regional approaches.

Decisions about defence and security have become more political and, consequently, attract more parliamentary attention. Participation in peace support operations is not

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[10]   *SIPRI Yearbook*, 2002, p.181

automatic, but subject to a wide range of considerations. Questions of stability and international law and order are high on the agenda. Grave violations of human rights, or even genocide, necessitate international action of international organisations or 'coalitions of the willing'. Participation is determined by national perceptions of their interests and, increasingly, by their level of ambition. What are countries prepared to contribute in terms of costs and what are the risks they are willing to share? And what part of the national cake are they willing to devote to peace and security in a tough competition with other tasks of government, which directly affect the citizen, like health, education and social security? The growing realisation of the link between internal and external security has moved the issue higher up on the political agenda, but trade-offs remain delicate.

Without trying to be too academic it is worth noting that modern Western society has developed a new paradox, which has to do with the difference between value-based and interest-based international cooperation and the confusion between values and norms. Values come first and norms are derived from them. In Western organisation, the sharing of sovereignty has become the norm, but risk sharing is the value. The goal of peace has become more of a process and less of a product. The paradox lies in the fact that at the same time our society has become averse to risk; a management ethos has taken the place of great ideals. The result is constant debate about every choice, compounded by the absence of precise criteria for maintaining levels of forces and the corresponding financial effort. Everything has become a matter of appreciation and everybody is in danger of losing track.

Under these circumstances, parliamentarians should attempt to follow a comprehensive and consistent approach, following clearly established procedures for defence committee proceedings and plenary debates. First, their government should present, follow and update its security concept and security policy. These should specify the defence needs in the strict sense of the word, that is the preservation of independence and territorial integrity, and be accompanied by a threat assessment process.

Second, the level of ambition for participation in international peace support operations should be determined, defining concrete contributions in terms of units and skills and readiness for deployment outside the country.

Third, personnel and equipment levels should be geared to these ambitions, including training, logistic support and cooperative arrangements. The preferred option would be to form 'force packages', trained and ready for deployment as soon as a crisis erupts and the political decision to join the operation is taken.

Fourth, in NATO and the EU more attention should be paid to the acquisition plans of allies and partners. The NATO planning and review process (PARPS) provided for a comprehensive evaluation by the military authorities. The EU follows a voluntary bottom- up process, which so far lacks the top-down process of proposing adjustments to member countries. It is not good enough to identify shortfalls and hope that somebody will fill them. Evaluation by the European Defence Agency might fill the gap.

Fifth, parliamentarians should make sure that governments apply the democratic processes of 'reveal, explain and justify' also to the equipment sector. On

the budgetary side, parliamentarians have to be convinced that there will be sufficient funding for the plans submitted to them, not only in the current year, but also during the entire acquisition phase. Governments have a tendency to underestimate price escalation in long-term projects, and to be more optimistic about future resources than in the current year. Germany and Romania have provided examples of procurement plans, which they could not afford. Statistically, estimates of total project costs have always been on the low side, and sometimes intentionally so. Cost overruns are frequent, delays occur, and flanking programmes are becoming more expensive than budgeted. As defence procurement involves long lead times, it is important to assess the impact on long-term capacity building to ascertain how new equipment will fit into a harmonious composition of the armed forces. The current emphasis on 'joint-ness' makes this even more necessary. Equally, attention should be paid to the life cycle costs of the new systems, including maintenance, updates and the personnel needed to handle them.

Aspects of secrecy and the prevention of corruption raise difficult issues. In the area of defence, secrecy inevitably plays a larger role than in other fields. Obviously, detailed operational plans have to remain secret, both for defence and peace enforcement. The same applies to certain weapon characteristics, but the need for secrecy should not be exaggerated. Most performance details are in the public domain through professional journals, company advertisements and other media. If a choice hinges on secret details, parliamentary committees should be able to receive confidential briefings behind closed doors.

Corruption poses a problem, because it is difficult to detect. Is somebody's preference the result of solid evaluation of all relevant factors, or have favours, undue hospitality, presents or outright payments influenced it? Ministries of defence should have special offices for countering corruption among their personnel, with access to all documents involved. Parliamentarians are the objects of approaches by companies in an attempt to sway their vote in a tough competition. Sometimes, this takes the form of donations to party coffers, as experienced in Belgium and Germany. The best way to maintain their objectivity in judging bids is not to visit defence companies on their own, but together with colleagues from other political parties.

There is a certain tension between the preferences of the military, who look for the best and are influenced by traditional connections with the armed forces and industrial companies of a particular country – often the USA - and politicians who have to take a broader view of the political and economic interests of their country. If a national or joint European product meets the criteria, why not take it, even if an American system might be better? Such considerations play most heavily in countries possessing a substantial arms industry of their own. In others, there are powerful arguments for buying the latest state of the art off the shelf and not giving a preference to European industry. The weight given to economic considerations varies from country to country, but generally is on the increase in comparison with the years in which the priority given to collective defence simply demanded the best. In any case, the matter of jobs at home has always played heavily in parliamentary debates.

Parliamentary control of defence matters rests with national parliaments. Nevertheless, the parliamentary assemblies of NATO and WEU have played an

important role in providing an international dimension to the debate. Their reports are of a high quality and a useful source of information to parliamentarians, the media and the public at large. Debating them and working and voting on joint resolutions raises the level of awareness in a process, which could best be described as 'consensus building'. Returning home to their own parliaments, members profit from this common appreciation (or differences) when they have to take the floor in the national debate.

ANNEX

COMPETENCES AND RESPONSIBILITIES OF NATIONAL AUTHORITIES IN A NEWLY ADMITTED NATO MEMBER COUNTRY[11]

ILLUSTRATIVE MODEL REPORT

National Assembly:

Is:	The main body for political guidance and control over the armed forces, which is exercised either directly or through its control over the government. In accordance with legal and constitutional provisions;
Adopts:	Laws concerning the armed forces; the National Security Concept and the Military Doctrine;
Controls:	the actions of the government, including by means of parliamentary interpellation; the formation and spending of the defence budget, the size, structure and number of personnel of the armed forces;
Declares:	War and Peace, Martial Law or State of Emergency on the territory of the country; sending and use of troops abroad; entry and stationing of foreign troops on national territory;
Ratifies:	International treaties (which are of military of political character).

Parliamentary Committee on National Security:

Is in charge:	of the working contracts and consultations with the institutions of the executive branch of government.

President (in his competence as supreme commander-in-chief of the armed forces):

Approves:	the strategic plans of the armed forces;
Appoints:	(and discharges from their positions) the high command personnel of the armed forces;
Chairs:	the Consultative Council on National Security; is empowered to declare a state of war, martial law or other state of emergency when the National Assembly is not in session.

Council of Ministers:

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[11]   Compiled by Ghebali and Lambert, op. cit, pp. 387-9.

Exercises:	the closest control over the overall functioning of the armed forces. Is accountable to the parliament for the security and defence policy of the state. Being a central organ of the executive power, it coordinates the activities of its subordinate bodies related to defence and security. The Constitution clearly defines the competences of the government in ensuring public order and national security and generally directing the armed forces. According to the Defence Law, the government:
Adopts:	normative acts on defence;
Approves:	the structure of the army;
Proposes:	appointments of the senior command staff to the President.

National Security Council:[12]

Is headed:	by the Prime Minister as a consultative body on National Security;
Provides:	support to the Council of Ministers;
Consists of the:	Minister and Deputy Minister of Foreign Affairs; Minister and Deputy minister of defence; Minister of the Interior and Chief Secretary of the Ministry of Interior; Chief of the General Staff of the armed forces; Director of the National Intelligence Service; Director of the National Security Service;
Summarises:	analyses and draws conclusions on the basis of all available information as to possible risks to national security and proposes possible actions. The decisions of the Security Council can be presented by the Prime Minster, and approved by the government, when there is a need to adopt a normative act;
Interacts:	closely with other bodies competent in national security, e.g. in the case of the preparation of the annual Report by the government on the state of the country's national security. Indeed, the work of the Security Council is a consensus-based civil-military interaction and an additional tool for effective democratic control over the armed forces in cases of crisis.

Minister of Defence:

Is:	a civilian;
Implements:	democratic control by law;
Is in charge:	of the implementation of defence policy;

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[12]   Established by the government in accordance with the National Security Concept.

Performs:	general leadership of the armed forces. The minister of defence;
Is responsible:	for the personnel policy of the armed forces;
Appoints:	decommissions, promotes and dismisses the officers for the military service;
Allocates:	the defence budget;
Develops:	general economic and social policy of the ministry of defence.

Chief of General Staff:

Assists:	the Minister of Defence in performing his duties together with the Deputy minister of defence.

Defence Council:

Is headed:	by the minister of defence;
Acts:	as a consultative body for consensus based decision-making on the ministerial level.

Constitutional Court:

Carries out:	civilian control through its decisions and interpretation of constitutional law related to the armed forces.

Chapter 5

Threat and Security

Dr. Jan Arveds Trapans

Introduction

This chapter discusses the development of national security in the framework of identifying threats, assessing risks, and developing strategies. The sequence shows how the procedure is carried out and was developed, largely, for military purposes and that it still bears the features of its origins. However, it can and has been used for concerns beyond military ones. It is being applied to non-military threats, to potential disasters like large-scale natural catastrophes; even the private sector is using this approach to investigate and counter potential threats to communications systems.

We shall consider threat analysis by describing the military aspects of the process, for three reasons. First, it gives us the most fully rounded version of the process, starting with information, proceeding to threat assessment, and concluding with strategies. From this vantage point, the separate parts that enter into the methodology can be delineated more clearly. Second, countries which are moving away from authoritarian governments and command economies toward democratic systems and free market economies have to acquire a new approach to security and defence planning. Third, more narrowly but not unimportantly, the particular methods of analysing threats and constructing security and defence strategies are things that policy makers in the 'transition states', particularly the ones which hope to join NATO and the EU, are expected to grasp, master, and integrate in the political and military conduct of their countries and societies.

The present-day democratic approach to strategy was elaborated as a method of identifying and dealing with threats and risks during the Cold War. 'The West… developed [a] National Security Concept, which tacitly assumes that the security of the nation includes defence but is not based only on military strength. It is an attempt to achieve balance between economics, society, and military power. It also recognises overwhelming need to consult the people and recognises the need to take into account the attitude of neighbours'. Because each country develops and documents its security strategy according to long-established political customs, there is no single Western template, no blueprint. But the essentials--a country's strategic environment, its relationship to international organisations, its foreign policy, and its economic capabilities--form the conceptual core in each one.

Information and Intelligence

The first stage of the process involves information and intelligence. The two words 'information' and 'intelligence' are similar but have different, distinct meanings when it comes to defence and military planning. Information is acquired by a number of organizations, from many sources. The information collectors are, as a rule, intelligence agencies. The information that has been acquired is assessed and analysed, whereupon it becomes 'intelligence'. Intelligence is a body of evaluated material, estimated to be useful and credible. It is accumulated, summarised, and policy makers utilise it as a basis for determining policy. It is the means for locating threats and assessing risks.

Intelligence can be grouped in different ways. There is internal security for the protection of the state and society; there is foreign intelligence which deals with external risks, dangers, and threats and like; there is counterintelligence which aims to prevent foreign intelligence operations and, recently, has been directed against the new terrorist threat. Intelligence services acquire and evaluate raw information; analyse and transform into intelligence; they accumulate it in situation reports, assessments, estimates, and briefings. Another way of separating intelligence is to divide it into strategic and operational intelligence. Operational intelligence is used to determine the extant and projected capability of a program or operation on an ongoing basis and does not result in long-term projections. It is what a military commander needs and gets. Strategic intelligence provides policy makers with the information needed to make national policy or decisions of long-lasting importance. It typically evolves over a long period of time and results in the development of intelligence studies and estimates. It integrates information concerning politics, military affairs, economics, societal interactions, and technological developments.

It is helpful to understand how threat reporting is managed. As information is collected through the three methods—human, technical, and open sources intelligence--compiled in intelligence reports, and a variety of them are disseminated to policy makers and government agencies. Because the amount of reports is huge, only a small part reaches senior government officials. Because some of them are classified, distribution is restricted. Nonetheless, Government officials, members of the Congress, some civil servants, and even members of some public institutions, whose experts have security clearances, have access to some if not all of them. Thus the 'intelligence community' is aware of the general threat environment.

Western studies of security and defence planning speak of 'intelligence organisations' and an 'intelligence community'. Each country has a number of intelligence organizations that have certain functions and legal rights in common. In the contemporary security environment, where new risks emerge and proliferate, the overall number of governmental organizations, which are engaged in intelligence pursuits, is rapidly increasing. The United States, which deploys the largest number of such organisations, has 15 of them, at the latest count. Some of them direct all of their efforts exclusively toward intelligence and security pursuits, others might have some special sections or units engaged in them, but all of them belong to the intelligence community. There are also organisations that are largely though not entirely funded by

the Government but work autonomously and they are extremely important and influential members of the 'intelligence community' and their expertise is used to perform security and defence analysis, some of it highly classified. (The RAND Corporation is the best known). Thus, the 'intelligence community" consists of official "intelligence organisations'–and some others as well.

The process of information, intelligence, and threat identification does not function precisely and, sometimes, can fail utterly. The National Commission on Terrorist Attacks Upon the United States examined a recent, extremely disastrous failure in its Final Report, or, 9/11 Commission Report. It scrutinised the entire range of what the Government did, from information collection, intra-agency work, intelligence reports, threat identification, and recommended countermeasures. The Report deserves careful study.

Threat Analysis: The Process

Threat analysis is an established, formalized method. It can be and, often is, presented and explained schematically, like a formula. The elements are threat, vulnerability, consequence, and risk. A threat is the likelihood that a security event will happen in a given time span, or, at a particular rate. A target is either vulnerable or not to a threat. Vulnerability is the probability that the threat—for example, a military attack—will succeed. Consequences are measured as estimates of damage to the nation's security, economy, or population'. Risk is assessed as a combination of threat, vulnerability, and consequences. Risk provides a measure, a guide for actions a government needs to take to minimize it. It is a calculation, something that a government could accept to encounter, or it could minimize by taking countermeasures which, however, might increase some other risk. A government might decide to build up a nuclear deterrent in order to make up its deficiency in large massive conventional armed forces, which are very expensive. (NATO made this decision during the Cold War.)

However, conventional forces can be downsized only to a certain degree, because their weakness could result in feeble defence even against limited incursions and produce another risk configuration. Measuring risk is complicated for it is related to threat, vulnerability, and cost--and these are estimates. Threats are 'concrete events' which, are circumscribed by probabilities; vulnerabilities also are 'probabilities'; consequences are estimated in human and material terms; and the result of all this is risk, described in the terminology practitioners use as 'the likelihood of an unfavourable outcome, given some threatening event, which usually is seen as a military event (although it need not be a military event)'. Two examples will be given, one theoretical, and the other concrete, to outline more clearly the process of threat—and-- risk assessment and what it leads to.

For the theoretical example, we will use a simple, hypothetical analysis, purportedly made by Canada's Ministry of Defence. It is a threat scenario envisaging a full-scale military attack by the United States using all the forces and weapons at American disposal, nuclear and conventional, land, naval, and air. Obviously, Canada could not succeed in countering this kind of an attack. Military resistance would be very short. The damage to the country and society would be immense. But the prospect,

or likelihood, of such an attack is virtually zero. Therefore, the risk for Canada also is zero. It need not take any countermeasures. Canada's Ministry of Defence need not prepare plans to build up the Armed Forces, change their force structure, make appropriate defence plans, and ask the Parliament to approve large increases to the defence budget. The Parliament is the final instance that examines threat and risk analyses because the final decision is on costs, which, during the Cold War at least, were seen as defence costs against external threats.

Defence planners seldom are in a providential situation where they can assume that the threat, or the likelihood of a threat, is zero or very close to zero. For example, the latest NATO Security Strategy, accepted at the Summit meeting in Washington in 1999 says: 'Notwithstanding positive developments in the strategic environment and the fact that large-scale conventional aggression against the Alliance is highly unlikely, the possibility of such a threat emerging over the longer term exists'. Thus the threat, envisaged to be highly unlikely at the time when the Strategic Concept was formulated, allows a possibility that it could rematerialize over time. Therefore, the security environment has to be reviewed periodically, to identify the emergence or re-emergence of threats over the long term.

Thus, it all comes down to informed judgment. There never is a solitary risk; there are clusters of them. In the contemporary security environment, more and more of them emerge, terrorists being the most vicious and dangerous one. Threats arise from retrograde economic, political and social situations and bolster each other. Extremist political organisations are known to be linked to criminal organisations. They can destabilise society, spill across borders, and endanger a region. The assessment of the total combination of the risks needs:

- Effective information collection and an objective process of evaluation;
- Informational input into the analysis process, generating intelligence;
- Adequate and expert personnel to do the analysis.

A procedure that ensures that policy makers are provided with threat analysis.

Threat analysis is used for developing security strategies, and in it is carried out in the Western planning process according to an established pattern. There is threat analysis that assesses risks, a national security strategy (or concept), followed by a national defence policy, and then a national military strategy. We shall describe the process with reference to what is presently taking place in the United States.

The Planning Hierarchy and New Threats

The United States was struck by a new and very damaging threat on September 11, 2001. Thereupon, it declared a global war on terrorism and has fought two wars, in Afghanistan and in Iraq. Here, our purpose is to describe what took place in the way of threat assessment and strategy formulation. The threat assessment prepared by a National Commission has been mentioned. Moreover, the United States reviewed and

revised its strategic planning, determined with three major documents: a National Security Strategy, a National Defence Strategy, and a National Military Strategy.

The White House issued the National Security Strategy in 2002. The major concern s was 'the war against terrorism' and the new Strategy established homeland security as the first priority to counter risk. It required active lines of attack to counter transnational terrorist networks, rogue nations and aggressive states that possess or are working to gain weapons of mass destruction. The strategy emphasizes the need to improve capabilities to prevent attacks against the United States, to work cooperatively with other nations and multinational organizations, and transform America's national security institutions.

A more detailed major statement is a National Defence Strategy, developed by the Secretary of Defence, with its latest version formulated in 2004. The Defence Strategy supports the National Security Strategy by establishing a set of overarching defence objectives that guide the Department's security activities and its objectives serve as links between military activities and those of other government. The Defence Strategy includes Department activities 'on actions that assure allies and friends, dissuade potential adversaries, deter aggression and counter coercion and defeat adversaries'. Four general defence objectives guide the Department's security activities. They are: to secure the United States from direct attack; secure strategic access and retain global freedom of action; establish security conditions conducive to a favourable international order, and strengthen alliances and partnerships to contend with common challenges. The Defence Strategy is political and military in nature.

Third, there is the National Military Strategy issued by the Chair of the Joint Chiefs of Staff also in 2004. It is guided by the goals and objectives of the President's National Security Strategy and serves to implement the Secretary of Defence's National Defence Strategy. It describes the Armed Forces' plan to achieve military objectives in the near term and provides the vision for ensuring they remain decisive in the future. The National Military Strategy provides focus for military activities by defining a set of interrelated military objectives for the Chiefs of the respective services; identifies desired capabilities and functions--applying force; deploying and sustaining military capabilities; securing battle space, and achieving decision superiority. There also is a separate National Strategy to Combat Weapons of Mass Destruction—nuclear, biological, and chemical—in the possession of hostile states and terrorists, which represents one of the greatest security challenges facing the United States. A comprehensive strategy to counter this threat is an integral component of the National Security Strategy of the United States of America.

These strategies have to be closely meshed. Planning is hierarchic, moving from a general, comprehensive national strategy, to a more circumscribed defence strategy, and then to a specific, detailed military strategy. Once the great steering wheel of national strategy turns, it sets in motion the larger gears in the defence strategy and, thereafter, moves the smaller cogs in the military strategy—in theory, at least. In practice, in terms of process and results, of how the work proceeds and what it brings in the end, it is a different story. The apparatus of strategic planning never functions in an exact way. The mechanism continuously needs repair and there is political grime

and military grit in it, the nature of which varies in different countries. Nonetheless, the above description does provide us with the general idea of how it works.

In democracies, Parliaments have much to say about security; the new democracies are often advised that national security strategies should be debated and approved by Parliaments. The United States has developed a different approach. The President approves the National Security Strategy and the Congress has indirect but great power over it (and over the Defence and Military Strategies as well) through budget approval and a finely developed control mechanism of committees, hearings, and other procedures. Moreover, the Congress receives from the Defence Department every four years, a Quadrennial Defence Review which explains the size and structure of the military. The Congress is powerful, well informed, and inquisitive. In the case of military strategy, civilian and military responsibilities are allocated along the following lines.

- What are the risks to national security?
  (Primarily a military issue, with civilian review)
- How can the nation mitigate the risks?
  (Primarily a civilian decision, with military advice)
- How large should the nation's military force be in view of threats?
  (Primarily a civilian issue, with military advice)
- What should the composition of the military force be, the land, naval, and air forces, their force structure?
  (Primarily a military issue, with civilian review)

Presently, the Congress is considering the implications of the latest military strategy. There is more to it than countering a terrorist threat; three separate, strong developments have a bearing on it. First, there is the end of the Cold War and the altering of the security posture and force structure of the United States. Second, there is a revolution in military affairs, at the core of which is computerised warfare. The armed forces have planned to become a high technology force, a bridge to the future. Third, of course, there is the war on terrorism. All three factors are integral parts of the recent military strategy, which, as a basic proposal for countering risks, is reviewed by the Congress. There is no space here even to indicate the intricacy of the issues at hand — nor, for that matter, any need. All of the strategies, analyses, cost estimates, and expert assessments are freely available, in print and electronically.

Risk and Threat Assessment: Great Powers and Small Countries

International institutions and great powers make threat and risk estimates, as do small countries. We will describe the basic defence posture of the three Baltic States that was developed shortly after they regained their independence. The description does not present the planning of a particular country, but summarises what is common to all three cases. The basic elements in their threat and risk assessment are geostrategy (the location of a country); its capability (economy and population); and the political

environment, international, regional, and domestic. Geostrategically, they have an acquisitive neighbour to the East, a sea to the West, but the three countries are friendly and, traditionally, have supported each other. All defence plans have to be closely linked to the economic and demographic resources that their societies have available for security. In their situation, there can never be sufficient resources, in terms of personnel or materiel, for self-sufficient defence. A small country needs to do the best that it can with what is available.

Defence, in military terms, means that a small country must deny the aggressor's objective, fighting on its own territory with extended small-scale actions. A great power aims at a swift military victory, forcing the defender to capitulate militarily and politically. The response of a small power is a strategy of territorial and total defence. Territorial defence is a decentralised but cohesive military action. It is carried out by a small, active force of high readiness, supported by reserve components, relatively stationary and locally mobilised. An aggressor would be met with protracted military resistance throughout the country's territory. Total defence includes passive resistance by the civilian population. If a small country can rapidly mobilise reasonably well-equipped forces supported by the population, it can sustain its resistance until the political and economic costs to the aggressor exceed strategic benefits because the international community would take strong economic and political measures. The potential aggressor would assess the consequences of its envisaged action (i.e., make a risk analysis) and concluded that it would lose more than it could gain.

The finite economic and demographic resources of small countries put limits to the size of the armed forces. Their readiness can be improved. But once they start to develop their force structures it is difficult to change them. Planners have to determine feasible plans from the outset. If money has been spent on wrong priorities, the errors cannot be rectified for a long time. Large states with plentiful resources can make wrong choices or delay building up their military potential. The United States, when faced with a sudden crisis, has summoned a tremendous exertion of national energy and committed enormous resources to build up its national security in a short period of time. A small country cannot change its course of development Therefore, time is another factor that enters into assessing risks.

NATO Enlargement and New Strategies

NATO has twice developed new strategies after the Cold War, in 1991 and 1999. Both have a bearing on present-day European security, and we shall recapitulate the content of the first before we consider the meaning of the second. NATO's Strategic Concept of 1991 was developed during a time of radical changes in Europe's political and military environment. It was written by a Strategic Review Group—and represented something new. Formerly, the Military Committee had done the work. Furthermore, the strategy was a public document; all the preceding ones had been classified. The new concept had separate military and political parts. It was still a military planning document but much of it concerned politics. 'Guidelines for defence' were included in the military part; a 'broad approach to security' constituted the political part.

Militarily, the Alliance had a purely defensive purpose; the nature of security was collective; and the transatlantic link was important and had to be preserved. NATO would continue to occupy the primary role of the Euro-Atlantic security region, that is, the Alliance could be militarily and politically viable as long as America was its strong component. No state would be able to intimidate or coerce any European nation. The power of the Soviet Union had receded and the former military threat was greatly reduced, although a remnant of it remained, posed by the residual strength of Russia's armed forces, with thousands of strategic nuclear warheads and a large nuclear-powered fleet. The return of Soviet armed forces to Central and Eastern Europe was highly improbable; the Soviet state was mired in its internal difficulties. But it could not be written off at once and forever.

During the Cold War, nuclear forces had played a central role in the Alliance's strategy of flexible response. NATO has decided to retain some nuclear weapons, although their number has been greatly reduced. A nuclear capability provided insurance against the possibility—admittedly, far-fetched--of a resurgent, hostile Russia. But the primary purpose was a means against the consequences of nuclear proliferation and weapons of mass destruction in the hands of unpredictable dictators with aggressive policies. The nuclear deterrent together with an appropriate mix of conventional capabilities created real uncertainty in the mind of any country that might contemplate seeking military or political advantage through the threat or use of weapons of mass destruction.

The Alliance had two defence missions. The first one was to 'deter and defend' against any aggression threatening the territory of a NATO member state. The second was to preserve the balance of power in Europe. Collective defence was no longer the fundamental rationale for NATO. New security risks and small-scale conflicts were possible in the former in Central and Eastern Europe. They could arise from the chaotic conditions in post-Socialist societies. In 1990, in London, NATO spoke of replacing 'forward defence,' its force posture, with a 'reduced forward presence'. It also spoke of modifying the flexible response strategy and of developing 'new force plans consistent with the revolutionary changes in Europe'.

At the Washington Summit of 1999, NATO accepted three new members, the Czech Republic, Hungary and Poland. It confirmed that that the Alliance would continue to accept new members, without saying when or which ones they would be. It presented a new Membership Action Plan or MAP, a detailed and prescriptive agenda for the countries that hoped to be admitted. It adopted a new Strategic Concept, replacing the one of 1991. Among its most important new provisions was crisis management for what is called in the Alliance's terminology 'non-Article V' provisions. This meant that the NATO new Strategic Concept included out-of-area or 'non-Article V missions'. Previously, forces belonging to NATO and Partnership for Peace countries had deployed contingents for IFOR and SFOR operations. But the decision made in 1999 was fundamentally different. The North Atlantic Council decided that the Alliance might wage war against Serbia over Kosovo, the first such resolution that it had made. Within a few months, it was at war in the Balkans.

NATO needed new capabilities which could function across the military spectrum, from managing crises that affect the security of the Alliance members to the

unlikely possibility of a major conflict. It had a well-developed technique of threat analysis, but it was based on scenarios that presented operational variations of possible Warsaw Pact attacks. For military and political reasons, the Alliance's forces had to be reorganized to meet the demands of a new security environment. Militarily, the large armoured NATO formations that had been standing at a high state of readiness were no longer required. For domestic political reasons, every NATO country was reducing its defence expenditures, the size of its conscript armed forces and spending less on training. NATO would have smaller forces, many of them at lower levels of readiness. This demanded enhanced flexibility; a greater ability to build-up forces through reinforcement, mobilization and reconstitution; and increased reliance on multinational forces.

As it enlarged, NATO had to maintain its cohesion and effectiveness. The new and future members had to consent to the collective defence or 'Article V' missions and to the new out-of-area or 'non-Article V' missions. Although collective defence remained the Alliance's core, most of its future operations were likely to be crisis management. Enlargement would have a strong strategic rationale while preserving the Alliance's core competencies. The transformation called for smaller but highly mobile, robust and technologically advanced armed forces, highly specialized and capable of immediate cooperation, based on a combined joint task force concept.

There was the need to assimilate the first entrants in the political and military parts of NATO. They had attempted to reach various membership objectives and requirements but they had not succeeded. Both sides, NATO and Central Europe, had underestimated the political and economic difficulties arising from a fundamental reorganisation of Warsaw Pact defence establishments. For this reason, the Membership Action Plan or MAP was developed and presented in Washington. It required a candidate for membership to provide sufficient funds to reform and sustain its armed forces, engage in Partnership for Peace, contribute to regional security, and participate in international peacekeeping missions. The MAP is a highly prescriptive document. Each of the aspiring states has to submit annual national plans that cover the full range of their activities in preparation for NATO membership. These plans include not only military measures designed to create force improvements so as to enable them to carry out provisions in the new Strategic Concept, but also details of defence resource management, political reforms, and economic policy. Fulfilling the conditions did not guarantee membership; failing to attain objectives provided a legitimate reason to delay membership.

Slovakia: Reviewing Threats in a New Security Environment

Slovakia had pursued an uncertain course in domestic and foreign policy, veering away from democratic reform and NATO membership, but then returning to them before the Washington Summit. Having decided to join NATO, Slovakia wrote a new Security Strategy, Defence Strategy, and Military Strategy. Their essential features were as follows. NATO was the only effective organization capable of guaranteeing security and peace in Europe. The full membership of the Slovak Republic in it (and in the EU) was in the most vital interest of the Slovak Republic, as it represented the optimum

way of guaranteeing its security and defence. After the admission of the Czech Republic, Poland and Hungary into NATO more than 90 per cent of Slovakia was surrounded by either NATO or EU countries and, as a result, the probability of any direct external military threat was low. A continuing process of enlargement would further lower the threshold. A longer-term view, however, did not exclude the outbreak of an extensive armed conflict. Social-economic, religious, national or other conflicts could emerge in unstable regions--conflicts that could escalate into an armed form. The Slovak Republic must be prepared to react by using its defence potential, especially by using its Armed Forces.

The failure of state structures and social-economic collapse in unstable states South-eastern and Eastern Europe caused by ethnic, religious, social tensions, might result in massive, illegal migration through the territory of the Slovak Republic. Other non-military threats were terrorist activities; illegal weapons transfer, including nuclear chemical or biological weapons; international organized crime; and a host of other activities that, unresolved, could lead to armed conflicts. Natural disasters and industrial catastrophes according to their nature, extent and consequences could significantly degrade the environment, life and health of inhabitants, and property. A shortage of basic foodstuffs could trigger a crisis situation which could considerably endanger state security.

The major strategic requirements were: to secure an effective defence of the Slovak Republic by its own forces; to ensure the timely meeting of political-military criteria for the entry of the Slovak Republic into NATO and thereupon to create conditions for an effective participation. Slovakia did not possess the resources to build its Armed Forces large enough to accomplish every conceivable mission. Threats were categorized by the probability of their occurrence and the warning time expected. An affordable force structure would require the acceptance of some risks, as shown in the outline below.

Threat	Likelihood	Impact on Vital Interests
Major Armed Conflict	Low Probability	High
Regional Armed Conflict	Moderate Probability	Moderate/High
General Non-military threats	High Probability	Moderate/Low
Natural Disasters	Unpredictable	Low/Moderate
Ecological Incidents	Unpredictable	Low/Moderate

Given a low probability of the threat of a major armed conflict, that warning and preparation time could be reasonably long, and the likelihood that alliances would be quickly formed with other democratic countries to counter it, Slovakia accepted a high level of risk as it developed defence forces which were not primarily focused on major armed conflict but on collective defence.

A regional armed conflict in the vicinity of the Slovak Republic was a serious military threat. However, it was relatively highly predictable, and it would not occur unexpectedly. Slovakia could accept a moderate level of risk and had to design a force structure capable of countering it unilaterally. The level of risk could be reduced by the formation of ad hoc alliances or coalitions with other external security organizations to counter this threat.

General non-military threats had a high probability but their impact on Slovakia's society was moderate to low. The Armed Forces had to maintain a force structure to fulfil their primary mission and respond to non-military threats requiring equipment and skills not usually maintained by forces that are focused on combat missions. Therefore, risk must be accepted that the Armed Forces would not respond to all of these non-military threats in as timely a manner or be well task-organized.

Natural disasters and major ecological accidents were non-military threats. They were the most probable and the least predictable. They must be dealt with in close co-operation with other state authorities. The Armed Forces had to be prepared to provide support to the non-military agencies of the nation, or of other countries.

Russia's Security Revised: An External Threat

Like Slovakia, Russia developed a new Security Concept, which was issued in 2000 after the Washington Summit. It envisaged national security as 'the security of person, society and state… against external and internal threats, stability against the influence of damaging factors, maintenance of such external and international conditions of living as to guarantee a possibility of steady, comprehensive progress of society and citizens'. The National Security Concept was described as 'the sum total of officially accepted views on the ways, means and mechanisms of protecting national interests of a state, legitimate from the point of view of international law in the political, economic, military, humanitarian, ecological and other spheres, both internal and external threats'.

The Concept recognised a failing economy and domestic social and political instability as undermining national security; a cumulative weakening of institutions caused by swelling and insidious criminality; the decline of the country's scientific and technical capabilities; failures in industry and agriculture; and a disintegration of the fabric of society caused by drugs and alcoholism. Terrorism was a threat which in Russia '[H]as assumed a multi-planned character and represents a serious threat to the state. An open campaign against Russia to destabilize the situation in North Caucasus and tear this region away from Russia has been unleashed by international terrorists [there] and has created a direct threat to the integrity of the state'.

However, when it comes to a real and present danger, external threats loomed large. With political means, Russia had attempted to stop NATO's eastward expansion and had failed. NATO had used war to implement its policy in the Balkans. Russia's

National Security Concept thus identified the main threats: the strengthening of military-political blocs and alliances and, above all, NATO's eastward expansion; the possible emergence of foreign military bases and major military presence in the immediate proximity of Russian borders; proliferation of mass destruction weapons and their delivery vehicles; the weakening of integration processes in the Commonwealth of Independent States; and the outbreak and escalation of conflicts near the state borders of the Russian Federation and the external borders of CIS states.

Once NATO had admitted the Czech Republic, Hungary, and Poland to membership, it met Russia's border at Kaliningrad. If NATO continued to move eastward and took in the Baltic States, Estonia and Latvia would establish a wider NATO-Russian frontier. Poland and Lithuania would encircle Kaliningrad. After NATO's successful air campaign over Kosovo, without engaging any of its land forces, Russia was no longer certain that it had a capability to deter a relatively limited conventional attack. This threat was assessed with a scenario for manoeuvres in the summer of 1999 which simulated a NATO attack on Kaliningrad. According its outcome, Russian conventional forces were unable to hold for more than three days, and to avoid defeat Russia used nuclear weapons.

Russia had never ruled out the use of nuclear weapons (nor had NATO). A previous strategic document, issued in 1997, said 'Russia reserves the right to use all forces and means at its disposal, including nuclear weapons, in case an armed aggression creates a threat to the very existence of the Russian Federation as an independent sovereign state'. However, in the new concept, nuclear weapons were no longer to be used in extreme situations; they could be used in a small-scale war that did not necessarily threaten Russia's existence. The military would 'use of all forces and means at its disposal, including nuclear weapons, in case it needs to repel an armed aggression, if all other measures of resolving the crisis situation have been exhausted or proved ineffective'. Standing, peacetime armed forces were intended for a local war, defined as the smallest-scale military conflict involving Russia and another state. The peacetime organization and deployment of the armed forces 'must be able to reliably defend the country from an air attack, work jointly with other military units and organizations to repel aggression in a local war (or armed conflict), and implement strategic deployment to complete tasks in a large-scale war'. A larger-scale war required strategic deployment.

The important points in the revised concept are a belief that NATO used force to attain its objectives and could be willing to use it against Russia in a strategic confrontation. It concluded that Russia's conventional forces were weakened, had retreated to unfavourable positions, and were unable to resist a large-scale conventional attack by NATO. Nuclear weapons were the only reliable means to deter NATO from using force against Russia. Harsh political language in various official documents was no doubt calculated to convey the message to NATO.

Threat and Risk in a Military and Political Equation: the Baltic

For the Baltic States, security concept development falls into three distinct stages and NATO's decisions marks each stage. The first one, from 1991 to 1994, saw the basic

organisation of their armed forces and the formulation of a defence policy. The Baltic national security concepts, based on threat assessments, were essentially based on an analysis of the extant national and regional security environment. The next stage commenced with NATO's decision to enlarge, specifically, with the NATO Study on Enlargement. It concluded with Baltic membership in NATO and the EU, and both took place almost simultaneously, whereupon the third stage was initiated. If, during the first stage, threat and risk analysis was a relatively straightforward thing, subsequently threat analyses were carried out, national security concepts revised; defence policies and military strategies generated; a planning hierarchy was put in place and underpinned by long-term, capabilities-based force development plans. The third or present stage is characterised by full integration in Euro-Atlantic structures, with consequent alterations of threats and risks, updated national security concepts, and new missions for the defence forces.

In the Baltic situation, in a military—political threat and risk equation, the political part weighs heavy in the balance. Baltic national security is based on a defence or military component, although considerable attention is paid to other security factors. We shall deal with it by addressing four basic guidelines in the threat-to-risk assessment process relevant to the Baltic situation:

- Increasing the size and/or readiness of the armed forces;
- Negotiating bilateral and multilateral agreements;
- Joining a collective defence alliance;
- Generating confidence building measures taken with neighbours.

Analysis of the security threats faced by the Baltic States shows that the military threat was a dominant one but it probably was not the most immediate danger. The worst scenario--that of a potential military attack--could not be neglected and security posture must also include deterrent and defence elements. The main threat is perceived to be that of being brought back into the political, economic and military sphere of Russian influence. It is only if the goal of overcoming this threat is not achieved that military intervention becomes a danger. Security, therefore, depends on defence against political, economic and criminal threats, as well as a number of specific causes for concern such as illegal migration, and the illegal activities of anti-government groups, and foreign intelligence services.

During this time, the Baltic armed forces had a conscript core backed by a large volunteer reserve. In the typology of the professional forces of Western Europe, they are small armed forces, predominantly land based but with naval and air force components, and some mobility. Western defence specialists calculated that if they implemented the national service methods of Finland, they could mobilise some 100,000 effective military personnel, more in Lithuania, fewer in Estonia. In practice, this level could be reached for decades, if ever. Materiel—weapons, equipment and supplies—together with infrastructure requirements, were the limiting factors. Given their economic and demographic capabilities, a small professional conscript force

backed by a large reserve component, was a feasible solution. In peacetime, the armed forces would provide deterrence by demonstrating their readiness and capability to defend national territory, waters, and airspace. They would support the civil powers in emergency situations like natural disasters. Under the threat of a war, or in wartime conditions, they will defend the national territory, airspace, territorial waters, and key administrative and political centres in conjunction with other institutions of national security.

The Baltic States have collaborated in their defence affairs since they regained independence. The first major project was the Baltic Peacekeeping Battalion or BaltBat. From the outset, the Battalion had a political aim and a military purpose. Politically, the Baltic States could claim a visible place in international peacekeeping, participating, as sovereign states, in international security. The Battalion was the first link in a mesh of regional security arrangements: a Baltic Naval squadron or BaltRon; a Baltic Air Surveillance Network or BaltNet; and a Baltic Defence College followed. All three countries were developing the same command, control, and information systems, logistics, resource management, and training concepts based on NATO experience. But, the most important of these elements was an international commitment to Baltic membership in the European family of nations and the development of a viable economy with Western trade and investment. Getting into NATO was the overarching goal and units of the Baltic Battalion participated in IFOR, SFOR, and KFOR.

Giving priority to international objectives can place national requirements in a subordinate position to a NATO agenda. The International Defence Advisory Board to the Baltic States, composed of senior, retired Western military and public servants, recognised that the Baltic governments were the most enthusiastic members in the Partnership for Peace and had contributed to international peacekeeping, thus demonstrating their readiness to provide security to others as well as to request it for themselves. 'But we sound a note of caution,' noted the Board, 'about the danger of allowing the benefits to be gained from international cooperation to consume a disproportionate amount of the limited defence budget, to the detriment of internal development'. The demands of NATO-led operations could push a nation down the route of developing forces which are NATO-compatible. But these are so expensive that in order to afford them the country had to switch scarce resources from national defence. For countries which are unsure as to whether they will ultimately be able to join NATO and which, in consequence, feel that in future they might, once again, have cause to fear invasion from a large neighbour, this presents them with something of a gamble, noted a senior NATO official. Preparing for the MAP may actually reduce independent defence capability in the hope of future protection from the Alliance. If that hope is not fulfilled, the gamble might prove to be a costly one.

We can assess the Baltic threat and risk situation along the four guidelines stated earlier. As to increasing the size and readiness of the armed forces, it would be a gradual process, lowering the threat threshold somewhat. But an outright military attack was not likely for a considerable time. For the purpose of analysis, a potential military threat to Latvia in the short- to medium-term could take the form of a destabilization campaign, a deliberately manufactured crisis, and military intervention

under the pretext of restoring order. If an aggressor would have to take account of all three Baltic States simultaneously, then the relative forces equation would rule out a rapid military action. Baltic regional security collaboration, however, through multilateral and bilateral arrangements advanced quickly, did not cost much, and provided considerable security. As to joining a collective defence alliance, the Baltic States were, in a sense, increasing a future military risk (not being admitted to NATO) by concentrating on finding a political solution (getting accepted by it).

We can conclude this section by comparing the consequences of NATO enlargement as seen at NATO Headquarters and as envisaged in various Central and East European capitals. Viewed from Brussels, enlargement was an essential part of a broad strategy to enhance Europe's security, extending stability eastwards. As seen from Slovakia, the Alliance's step-by-step eastward progress, as analysed in its threat and risk assessment and expressed in its security and defence strategies, minimized larger dangers, first by surrounding Slovakia with a zone of external security and, thereafter, including Slovakia in it. However, it did not extinguish some regional threats. Although these are more distant ones, there could be consequences for Slovakia. Kosovo continued to be a troubled area and Macedonia's security was profoundly undermined by the war and its aftermath. As seen from Moscow, NATO's eastward progress is seen in negative terms. As seen from the Baltic States, NATO offers great security promise and a degree of risk. Acceptance by NATO greatly eliminates the major threat. Rejection means that the Baltic States are consigned to a perpetual 'grey zone' or Russia's sphere of influence. Their solution is to make energetic preparations for membership. In a sense, if it was a calculated security gamble, the Baltic States played their security policy cards skilfully and collected the winnings at the Prague Summit.

The New Threat Range

Contemporary security studies and security concepts recognise a range of threats. At the one end of the array there is a declining, traditional military threat; at the other, an escalating terrorist threat. Threats emerge, alter, advance, or retreat; their range is not fixed or constant. Proximity, probability, and potential danger vary from region to region, from society to society. The traditional threat, military assault across a country's borders, has retreated further from some countries, less from others. Belgium can assume that there is no longer great need for investment in conventional territorial defence and it can reorganise its defence establishment accordingly. 'It is not so easy to persuade Poles or Estonians that this is so, and it is not realistic to expect such countries, whose geography and recent history still dominate their security thinking, to abandon traditional military concepts of defence and security'. A chart of threats used for Slovakia places them in five categories: major armed conflict, regional armed conflict, general non-military threats, natural disasters and ecological incidents. Most the 'new threats' cluster in the category 'general non-military threats' with some spilling over in the 'regional armed conflict'. The latter threat was assessed as having 'moderate probability' and the risk was measured as 'moderate/high'. For countries

like Macedonia, both the probability and the risk would be 'high,' and Macedonia might list 'terrorism' as its potential cause.

Terrorism

Present-day national security concepts identify terrorism as a threat, often naming it 'global terrorism'. An all-embracing designation for a phenomenon that appears in various places with different participants and objectives can be misleading, blurring its specifics. The United States has declared a global war on terrorism. It can strike the American 'homeland' from various parts of the globe and the United States will attack any place which harbours (or claimed to harbour) terrorists. For the United States 'the catastrophic threat' is posed by the Al Qaida network, its affiliates, and its ideology. Shortly before the '9/11' attack, a US intelligence summary warned that Al Qaida 'is not some narrow, little terrorist issue that needs to be included in a broader regional policy'. But for Macedonia, a 'little terrorist issue' is the overarching threat, a regional one, because Macedonia envisages terrorists as paramilitary, regionally operating, radical political groups, deploying from across the Kosovo border.

Estonia's recent National Security Concept believes that terrorism, terrorist organisations and extremist groups are not 'a threat feature in the country'. However, the existence of terrorism must be recognised in order to develop international co-operation. Bulgaria's national security concept does not mention terrorism, but its defence policy (in Bulgaria called a 'military doctrine') and the military strategy do, and estimate the probability of a terrorist attack upon Bulgaria as low. However, they take into account 'the risks to [Bulgaria's] security and territorial integrity resultant from the destabilising effect of more limited military and/or armed formations and/or terrorist groups'. A crisis could originate from paramilitary-terrorist activities in the nearby area embracing Macedonia, Kosovo, and Albania which might spill across Bulgaria's borders.

Terrorism is a tactic. There are varieties of radical groups, designated as terrorist. They are located in, and operate from, known locales like Chechnya, getting some external support from Al Qaida kind of networks. But their base of operations is known and their structure is paramilitary. Most often, they get support from criminal groups. In some Latin American countries, there are established, recognized links between terrorist and extremist groups that attack state institutions and drug trafficking organisations that help finance the terrorists. A similar pattern exists in places like Kosovo. In Macedonia in 2001, armed Albanian militants, the National Liberation Army or NLA began an armed insurrection for minority rights. Western observers ascribed other motives to the NLA, including support for criminality and assertion of political control over affected areas. The NLA was not a criminal organisation. Nonetheless, there is a seam of criminality, drug smuggling, within it. Narrower or wider, a criminal streak can be found in many radical bodies.

Threats from Criminal Networks

Illicit trade in weapons is highly profitable. They are acquired in one country, routed through another one, and sold in a conflict zone. Some post-socialist countries, like the Ukraine, were left with huge stocks of Soviet weapons for which their reduced armed forces had no use. A Ukrainian parliamentary commission found that the 1992 military stockpile was worth some 90 billion US dollars billion and that, in the course of the next six years, some 32 billion of it was stolen and marketed abroad. Weapons from the Ukraine, Russia, and other states have been transported to conflict areas and civil wars in the Balkans, Caucasus, the Near and Far East, Africa, and South America.

Criminal groups or conglomerates provide a variety of illicit goods—drugs, contraband, and human beings. Thus, located between the traditional-military and the recent global terrorist threats there is corruption, organized crime, insecure borders, smuggling of weapons, drugs, contraband, and human beings, illegal migration, and ethnic and religious conflict. They are the more persistent and difficult to counter, because they often are linked one to the other. Criminal organisations are well established in adjacent countries. They are organised regionally and operate across borders. Organized crime and corrupt state officials do not recognize state borders in the post communist world.

Fragments and 'Pseudo-States'

With the collapse of the Soviet Union and Yugoslavia, some countries like those in the Baltic States regained independence; others, like the Ukraine, became fully independent for the first time in terms of international law and international recognition. Between them are fragments: Transdnistria between Ukraine and Moldova; Kosovo in the Balkans; Kaliningrad, a part of Russia, but an enclave between Lithuania and Poland. There are other fragments in the Caucasus. They have appeared partly due to history and national identity and partly because of great power politics. Kaliningrad and Transdnistria are sustained by Russia. Kosovo continues its uncertain existence to some extent because NATO and the EU cannot decide what to do with it.

Transdnistria, a fragment broken from Moldova, is not a state but functions like one. It has been called a 'pseudo-state'. It provides counterfeit customs and other documents which are used for illicit shipments, using Ukrainian ports in the Odessa region. The huge amount of weapons transported across the Black Sea strongly indicates the complicity of some Ukrainian state officials. The fragment and pseudo-states are the breeding grounds for the new threats. Moldova is a place through which illegal traffic flows from the East, Transdnistria, to the West, and Moldova produces its share of criminal traffic. Albania, Macedonia, and Kosovo have borders that are difficult to control; they even are difficult to oversee.

A Regional Security Community

Containing and minimising the threats from transnational criminal networks presents novel and exceptional difficulties. The networks are regionally organised and carry out a complex of illicit actions, all of which endanger societies and undermine stability. They present a multifaceted security threat that has to be countered by intelligence, counterintelligence, police, border control, financial surveillance, and other means. This has to be a joint effort, engaging ministries that customarily deal with a country's domestic issues, like the Ministries of Interior, Finance, Law and those which are responsible for external issues, the Ministries of Foreign Affairs and Defence. Therefore, each country has to develop close collaboration among various ministries and agencies subordinate to them.

As it is no longer possible to fix unmistakable threats on one or the other side of the border of a state, it is no longer possible to draw a clear demarcation between external security and internal security. Once governments begin to remove obstacles between their own ministries, departments, and agencies, they will have to prepare specialists with new areas of expertise who can work in their countries and also with their counterparts in neighbouring countries. Because the new security threats come from illegal organisations that operate across borders, governments have to acquire information from their neighbours and share information with their neighbours. Security services have to be reorganised thoroughly in order to meet the new threats with fundamental changes in their mission, structure, and oversight. Restructuring of the security sector, which contains a number of institutions that come hand-in-hand with their reform and reorientation for each one, is bound to be a massive and complicated undertaking.

In the defence area, however, such efforts have been successfully initiated as regional security arrangements. For example, there is the Southeast European Brigade, or SeeBrig, launched in 1998. Defence Ministers from Macedonia, Albania, Bulgaria, Greece, Italy, Romania, and Turkey established it. Composed of national units which remain stationed in their countries, coming together for training and exercises, the Brigade's Headquarters were at Plovdiv, Bulgaria and, subsequently, move every four years to the other states. SeeBrig could be made available for conflict prevention and peace support operations mandated by the UN or OSCE and carried out under NATO command. There are other South East European initiatives as well.

Western Influence and Assistance

The process of national security concept formulation has already been described, as well as how they are followed by defence concepts or strategies and also by military strategies. National security concepts in all transition states include the new non-military threats. However, there is no follow up with specific strategies and procedures, like the ones developed for defence and military concerns. To some extent, this lapse has been brought about, although inadvertently, by Western organisations and their assistance programs. Until now, Western attention and assistance has been directed

toward reform and reorganisation of the armed forces in the 'transition states,' largely ignoring the non-military security sector.

There have been many external assistance programs in politics (democratic control of the armed forces); economy (resource management); military reform (changes in force structures), and NATO procedures (interoperability). Multi-national military task forces, involving NATO and non-NATO countries, have been deployed to conflict areas, notably to the Balkans. The armed forces have been prepared to undertake missions where political and military objectives are linked, such as peacekeeping, civil security, crisis response, and humanitarian relief. The expansion of the non-combat or low-intensity combat missions introduces new capabilities: flexibility, initiative, long-term sustainability, and the ability to co-ordinate with domestic or foreign civil and political authorities.

But armed forces cannot be the first line of defence against the new threats and illegal organisations, although they have, on occasions, been directed against paramilitary organisations. A current preoccupation among Western states is how to erect strong state borders, barriers holding back a flood of the westward flow of criminal traffic. The reason for this, to some extent at least, is the fact that as the EU and NATO enlarge they come close to, or in contact with, the areas that produce or export the new threats. It is difficult to see how trying to erect firmer border fences could block the threats. The borders are weak and porous and it would take much time and effort to strengthen them. What is needed is in depth defence, constructed with regional, trans-border security institution collaboration.

Basically, the national security institutions of the states of the 'Trans-Atlantic community', that is, the member states of the international institutions, NATO and the EU, are still the ones constructed to win the Cold War. Their armed forces are organised primarily for defence against the threat of territorial invasion or for force projection, as in Afghanistan and Iraq. Western intelligence organisations, notably the mammoth, complex, and extremely expensive American apparatus, have not been adequate to deal with the new threats nor has it been effectively restructured to cope with them. Present day threats are delineated by lines marking fractures within societies. They cannot be traced along boundaries separating sovereign states.

New Threats to Ecology

The method of calculating threat—probability--vulnerability—risk is not as effective with the new threats as with the traditional ones. However, initiatives are under way to achieve this, at least in some areas. NATO has begun a program on the definition, exchange, and analysis of the current status of research, including models and policy approaches for the current relationship between environmental changes and security. It proposes to develop criteria for security threat and risk identification and assessment, evaluating environmental problems and trends in terms of their effects on security policy with the aim to generally categorize conflicts induced by the environmental degradation or in which environmental degradation is a major contributing factor.

The basis for the evaluation will be regions relevant to NATO security interests and ecosystems in terms of their interrelationship with the main environmental

problem areas. Using the threat assessment, there will be an elaboration of a risk analysis incorporating traditional NATO risk assessment methods to evaluate risks posed, wholly or in part, by environmental degradation. Risks will be assessed in a global or regional context in relation to other potential conflict factors, and a prioritisation of risks, taking into account NATO, the Partnership for Peace and regional priorities.

There is crisis management. Western institutions deal with crises with means that range from preventive diplomacy to force projection. This provision is included in the NATO Strategic Concept of 1999 for 'Non-Article V' out-of-area missions. According to NATO, the lesson of the past decade in the South East Europe is clear. Early warning of impending crises is vital. But knowing how the Alliance can get involved in an emerging crisis is difficult. Members of the Alliance have to make a political decision, and this takes time. Yet, in South East Europe a crisis is a dangerous event that emerges suddenly and threatens the lives of a considerable part of the population, the social structure, the political system, even the sovereignty and territorial integrity of a country. A volatile situation in one country might easily have a domino effect on its neighbours. No government can wait until NATO or some other international body deliberates on what can be done and should be done.

Crisis Management

Regional armed conflict is a threat that is included in many national security concepts, particularly in South East European countries. A regional conflict endangers a country and it will cause great damage if it floods across its borders. But the origin of regional conflicts and crises is altering. During the 1990s, Belgrade was the epicentre of conflicts in the Balkans. The Balkan wars tended to overshadow smaller but more likely crises that might break out. When a huge, fraudulent financial scheme in Albania collapsed in 1997, there were political riots, attacks on police and military weapons depots, and a near collapse of the political system. The government did not know how to cope with the crisis; military commanders were at a loss as what to do. Refugee flights reached Italy and, eventually, the Western European Union attempted to contain the crisis. What happened in Albania was the case of a frail state that imploded from a sudden, sharp, blow.

We can envisage a crisis situation, using a scenario, a concoction of various threats. (The scenario was actually developed for analysing a regional crisis for participants from Central Europe.) It starts with an ecological and human catastrophe. A nuclear reactor melts down in an area where the boundaries of three countries come together. Massive flights of frightened people scurry back and forth across frontiers in an area that is disputed by two of them. In the confusion, border guards of one country reportedly direct gunfire on guards of the other. Immediately before the alleged incident, the second country has ordered the mobilisation of reserve components in order to block refugees scrambling across frontiers. All countries make desperate appeals to NATO, the EU, and the OSCE for help; however, they do not indicate what they need and with what priorities. Of course, not every country could be threatened by

this particular event. Nevertheless, in the large area from Kaliningrad on the Baltic to the Black Sea, no probable crisis can be struck off the list.

Crisis management should rank higher on the agenda of security sector reform than plans for mobilising and deploying a country's armed forces against a possible external threat. The less a government makes adequate provision to meet these threats, by developing an effective crisis management capability and investing in the right type and quality of security forces—armed forces, police, intelligence, the more serious the danger that the threats themselves pose will be. To international security institutions, crises are out-of-area events and the means of management range from preventive diplomacy to force projection.

The transition countries have laws and administrative provisions relevant to crisis situations. In general, they lack effective coordination mechanisms that can move into action. This could have serious adverse effects if the system were put under strain, either through the heightening of external risk or through major civil emergency. There is a need to construct, embed, and practise on a regular basis the mechanisms required for the efficient functioning of government in times of crisis or emergency. The study and understanding of the skills of crisis warning, prevention and management, both internally and with partners, should feature as a high priority in the near future. Management mechanisms are inadequate or need to be constructed from the ground up. Security sector reform has to consider three areas, national, regional, and international. National planning should identify a place (perhaps the cabinet, perhaps a national security council) as a management centre. Neighbouring countries need to collaborate and management structures and procedures in adjoining countries should be very similar, with regional interoperability. Civilians and the military agencies of one country will have to talk to their counterparts across borders. There should be good communications between Western and Eastern crisis management centres.

On the national level, crisis management should be developed with three requirements in mind. The first one is the capability to collect and analyse information about what risks and threats could emerge and how rapidly. The second one is how the management structure operates. Management does not require a large, permanently staffed structure. Post-socialist governments tend to make bureaucratic plans, which can hinder rather aid rapid response. The third requirement is legal. A government might have to exercise extraordinary means. The civil rights of a society might have to be curtailed with curfews or other measures. But post socialist officials have a tendency to view security and response to emergencies in terms of domestic, police powers. Regional crisis management has to aim at recognising, containing, and eliminating crises in their incipient stages. The purpose is early containment until international organisations are ready for action.

Chapter 6

Democracy, Security and Defence Planning

Dr. Jan Arveds Trapans

Introduction

A Ministry is an organization that a Minister deploys in order to carry out policy that has been decided on by the Government and approved by the Parliament. In this sense, the Defence Ministry has much the same obligations as other Ministries. But for Defence there are significant differences. Some of them are inherent in the nature of its purpose. It controls and guides a large, powerful, and autonomous organization, the Armed Forces. Much has been written about the issue of democratic control of the Armed Forces, and much of that has immediate relevance to the situation in which the new democracies find themselves.

There are more problems – new, large and complex — that confront Defence Ministries. The Armed Forces are being reduced, reorganized, restructured and they are accepting entirely new missions. After the Cold War, the security environment changed, but for the countries outside Western Europe it has not settled down. International institutions, NATO and the EU as well, are enlarging. They have accepted some countries; they are approaching others; they are pushing a wide web of institutional relations ahead of their approach and it involves countries in their path. New threats have appeared as well, domestic, regional, and international. Of all the Governmental Ministries, Defence is engaged in dealing with more new issues and problems than any other Ministry. Within each country and Government, comprehensive, unsettling changes are inundating political institutions as they adjust themselves to democratic systems, free market economies, and open societies. Thus, as Defence Ministries are developing structures and procedures to deal with a range of new tasks, so are other institutions, for example, the fledgling Parliaments. First, there is the issue of collaboration in the defence community, between the civilians and the military, initially outlined in constitutions and laws, and thereupon worked out in practice. Second, there is the relationship between the Ministry and the Parliament. The latter, still somewhat uncertainly, are beginning to grasp new, unfamiliar levers of democratic political power. Third, there is a section on resource management and defence development, a critical issue that requires expertise not only in the Defence

Ministry and the Armed Forces but also in other Government branches and the Parliament. The fourth is the Government itself, the Cabinet, where Defence officials present their programs, argue their priorities, promote their requirements, and try to sort out their responsibilities for domestic and regional security affairs which engage more and more Ministries. Fifth, there is society. A Defence Ministry has to consider society as a whole; it needs to engage one particular and organized segment of it, or 'civil society' and it encounters and has to deal with the media. Finally, there is the international environment, the 'approach of the West,' which proposes many programmes, demands more attention, and more work from Defence and other Ministries.

The obligations and functions of Defence will be described in terms of how a Ministry develops its relations with the various entities that have been mentioned above with particular attention to establishing the Ministry's internal structures. It will be described with reference to practices and examples taken from the experience of the new democracies. It will consider performance: how some structures were put in place, what has worked well and what has not worked particularly well. In the parlance used by Western expert nowadays, we shall note 'good governance' wherever it appears.

We include a description of what the power and the role of a Defence Minister should be in a new democracy bent on reform and shaping a new Army, oriented to new threats and based on a new social contract will require strong political will and direction. 'This requires a civilian Defence Minister with a strong ministry. It is he and his ministry--not the Armed Forces--who is responsible to the government and parliament for ensuring that defence policies, strategies, structures, and actions are focused at the security priorities of the public (and their elected parliamentary representatives) and match the resources that society is willing to spend. When expectations exceed funding levels (which is common), it is the Minister who must ensure that society (and its political representatives) are aware and accept the tradeoffs and the risks. He must also be responsible for implementing policy, for giving orders to the generals and checking that these orders are obeyed. This requires mechanisms to check upon compliance and political strength, based on support from the executive and parliament. The strength of this support reflects the strength of the 'defence consensus' among society's political forces. Where no such defence consensus exists, the Minister must do his best to build it; otherwise he will fail.

A Defence Ministry in a New Democracy

The governmental structures of representative political systems are constructed with constitutions and laws, which place the Defence Ministry in its proper position and provide it with the necessary authority to carry out its duties. A Defence Ministry is an uncommon institution, somewhat different from other Ministries. It is responsible for much of the effectiveness of the Armed Forces. However, the Armed Forces are an autonomous, cohesive, hierarchic organization. Because of their nature and mission, they cannot be democratic. The highest level of the Armed Forces is the General Staff, headed by the Chief of Staff. On the one hand, the senior military commander is responsible to the Defence Minister and, therefore, under democratic (and

parliamentary) control. On the other hand, according to democratic practice, the Head of State, the President, is the Commander-in-Chief of the Armed Forces. Presidential powers are defined in the Constitution, and are different in peacetime, in crisis situations, and in war. However, in each case, the President has a degree of authority over the Armed Forces. Thus, the line of subordination for the military follows two tracks. As Cabinet members, Defence Ministers are responsible to Prime Ministers. Because the Armed Forces are being reduced, reformed, and redirected—which is an expensive, long-term undertaking--Defence Ministers have, or should have, particularly close engagement with Parliaments.

The Defence Ministry stands at a political intersection of civilian and military affairs and the Minister's authority rests on a fundamental principle, the democratic control of the armed forces. The essentials of democratic control have been described in many analytic studies. The military can have no influence in domestic politics; it cannot act as a political organization, safeguarding its privileges and power, and it has to accept democratic civilian guidance in defence policy. Governments propose and parliaments decide on defence spending, force structure, procurement and related matters. The soldiers should be 'the neutral, apolitical servants' of domestic, civilian leadership; their role should be limited to implementing the overall policy choices of that leadership. However, as a very senior soldier with extensive experience in Western countries and in the transition states wryly observes: 'This is all very clear when set out in an academic manner, but life in practice is never so simple'.

The established democracies have managed to sort out military-civilian relationships over centuries. The result can be summarized under the heading 'democratic control of the armed forces'. There are many 'new democracies' or 'transition states' in the world today; therefore, their armed forces are to be placed under 'democratic control'. Moreover, the structure and techniques of democratic control are to be essentially the same as in NATO and EU countries. (There also is the OSCE and other bodies.) As these two major institutions enlarge, they repeatedly issue criteria lists to countries which hope to join the join them or just be satisfied with close co-operation. The bulk of the criteria deal with democratic control of the armed forces; the requirement that the Defence Minister should be a civilian is close to the top of the list.

The new democracies are delineating Presidential, Ministerial and General Staff responsibilities with laws and other normative acts. The laws state Ministerial and General Staff responsibilities. Generally, Ministries are responsible for defence management, military development, and support the Armed Forces in regard to funding and other resources according to requirements defined by the General Staff. The General Staff is responsible for operational command and control and defence planning. In the transition countries, there is no shortage of laws. Usually, there is an overabundance of them. Written by inexperienced legislators, many laws, normative acts and official concepts lack clarity. Like their authoritarian or Soviet predecessors, they do indicate clear responsibilities but answer all administrative questions. They often have convoluted arrangement and sequence, contradictory provisions, and obscure terminology. Ambiguous laws on security and defence have led to conflicting

interpretations by Presidents or Prime Ministers about their political roles and powers. But the military, as a rule, has stayed away from involving itself in politics.

The Western design assumes that Defence Ministries are headed by civilians and staffed largely with them. This is not the present situation in the new democracies, although there are some notable exceptions. Civilians are only gradually moving in and some are headed by civilians and staffed largely with them. In transitional countries, there has been a lack of national governmental capacity, of civilians with overall competence for defence policy formulation and planning. Democratic, civilian control, the responsibilities of the Defence Ministry vis-à-vis the General Staff, and defence reform are three thorny obstacles that the new democracies are expected to overcome without much delay. Presumably, once the mechanisms, routines, and habits of democracy are in place, the conduct of the policy makers and politicians in the new democracies will be no worse and no better than that of their peers in the old democracies. The obvious difficulty is that the time allotted for putting things in place is short, measured in decades not in centuries. Every defence establishment must be thoroughly reformed, politically and militarily. Reform requires reformers. According to the Western view they should be civilians, led by a civilian Minister. However, an examination of what has taken place in those Central European countries where defence reform has taken root and is now capable of flourishing, concludes that it has been a process led by a few senior officers of vision, courage, determination and technical knowledge. They have been able to inspire subordinates to follow them and to draw on external experts to help them. Moreover, they have also been fortunate to have strong political backing to protect and encourage them. The strong political backing is provided by a civilian Defence Minister, but the military has been, on occasions, a moving force.

We can illustrate this by the respective responsibilities of civilians and the military in the customary Western method of coherent security planning. It is generally done as follows. Successively, there is a threat perception, a national security concept, a defence policy, a military strategy, force development plans, training and doctrine, and so forth, dividing and subdividing into detailed plans and practices. Without a coherent planning process, it is very difficult for the military to substantiate manpower requirements, materiel, funds, supplies, technical and other resources, as well as work out plans for training and deployment. Without a clear definition and prioritisation of threats, it is difficult to calculate the manpower and materiel needed for performing certain missions; types of weapon systems to be equipped with; and indicators for assessment of the level of mission readiness.

The relationship between a security concept, a defence concept, and a military strategy has been described in another chapter; the first concept sets the others in motion. The Defence Minister (and the Ministry) participates in the formulation of the security concept; the Chief of Staff serves as the Minister's adviser. The next step is a Defence Concept, which should link the national security concept to the process of developing force structure. It is developed in the Defence Ministry, where in the Western process, civilian and military participation is balanced more equally.

A proper, effective working relationship of a Defence Ministry with the General Staff exists when the two can develop practicable solutions for what policy

makers--the civilians--propose to achieve and what the experts--the military—calculate is needed to accomplish it. In peacetime, the Defence Ministry's area of authority should include preparation of the defence budget, access to intelligence, involvement in strategic and defence planning to include force structure development, arms acquisitions, deployments, personnel development, and military promotions. Effective support for the Minister requires partnership and co-operation between the General Staff, military members in the Defence Ministry, and the Ministry's civilian body of experts. Defence development in a democracy is a process where the government transforms general security needs, accepted by society, into defence aims; planners convert them into feasible, optimal objectives; military and civilian defence experts refine them in short, medium and long term plans and bring them to the political masters in the Parliament for approval.

In democratic systems, the civilian role in defence planning has increased over the years. However, soldiers have also moved across the line that used to differentiate military and non-military responsibilities. A General Staff officer has to participate in administrative meetings, prepare cabinet policy papers and sometimes testify before parliamentary committees. NATO is enlarging and contemporary military professionalism requires knowledge of international organizations, interagency stratagems, and the procedures of multi-national civilian-military bureaucracies. The present-day professional soldier needs to be a military administrator and military diplomat as well as a military commander. On occasions, soldiers are asked to perform assignments once reserved for civilians.

The Ministry and the Parliament

Democracies have control over the armed forces and their Parliaments possess it because they decide how much money the Government will get and how much of it can be spent on defence. In democratic political systems, parliaments have established methods and procedures of working with Governments. They differ somewhat from country to country, but the essentials are the same. The Parliament's 'power of the purse' leads to the requirements of transparency and accountability upon which the mechanisms of parliamentary control have been assembled--the organisation and function of Committees, the conduct of Hearings, Questions to the Minister, and so forth. In the recently established democratic systems, lawmakers have had to write democratic constitutions, promulgate laws, create new political structures, and acquire the behaviour and routine of everyday work. The Parliaments have had to proceed, step by step, from political theory to institution building and to conducting work in committees, holding hearings, and approving budgets. On the one hand, they have had to do all this quite rapidly, in a relatively few years, whereas the old democracies have had a much longer time. On the other hand, if they do not acquire political behaviour and routines, there can be no extension of democratic control over the armed forces or reform and democratic control over much of anything else.

The Constitution and laws state the responsibilities of the Ministry of Defence *vis-à-vis* the Parliament. In principle, there is no difference between the responsibilities and obligations of the Defence Minister and those of other Ministers. All Cabinet

members, as a rule, have to appear before Committees, they can be requested to be present at Hearings, and they have to answer Questions. In everyday practice, the Defence Minister's engagement with the Parliament is particularly concerted and complex. Parliaments have standing committees, and the one on Defence Affairs is usually among the most important. The new democracies are basically changing their Armed Forces, and that is a complicated, long-term, and expensive.

In principle, the democratic structures as established in the Constitution and through laws are quite democratic. Governments and Parliaments have agreed to accept and mutually observe the appropriate distribution of powers and responsibilities. As it might have been anticipated, in practice there have been many shortcomings. A frequently encountered difficulty in the transition countries is that few parliamentarians have sufficient expertise to deal with defence affairs, including the ones who sit on important committees, like Defence and Budget Committees. This is no disparagement of their abilities. Western Parliamentarians have expert staff, for committees and for individual Members, civil servants who have the knowledge, skills, and tools to support the elected representatives so that they can hold defence officials and the military accountable in affairs. Parliaments in the transition countries do not have such assets. However, staff expertise is a prime requirement and few Parliaments in the new democracies have developed it adequately.

Describing the political realities of defence reform, Christopher Donnelly has written that 'For example, it is no good claiming that 'we have good democratic control' if the country has an army which is in a shambles; no one in the government really knows how many hospital beds are the equivalent of the cost of a battalion of tanks, or if the (parliamentarians) cannot identify how many tanks are required to defend the country…. The decision must be a mutual balance of responsibility between politicians and the [defence] specialists'. Defence Ministries could assume (as some have) that they might be better off by directing their attention toward those institutions — the Presidency, the National Security and Defence Council, and various Ministries (particularly the Finance Ministry)--which have influence over defence development. After all, a Defence Ministry is responsible for urgent reforms, not for the shortcomings of the Parliament. This is a narrow view of things. Without competence in the Parliament as well as in the Defence Ministry, without a knowledgeable civil service staff in both, without continuous collaboration between the staffs in the two institutions, there can be no proper exercise of power by the Parliament or effective planning in the Ministry.

Equally important is a thorough understanding in the Parliament of the Armed Forces' justifiable needs. Without it, a Defence Ministry could submit all the planning documents, budget papers, and other information to which Western Ministries submit to their Parliaments, thus apparently fulfilling the requirements of transparency. As long as the Parliament does not have the capability to comprehend what resources are required and how they are utilised, there can be neither transparency nor accountability. It is in the interest of the Armed Forces and the Defence Ministry just as much as for the Parliament. There have to be competent civilians in the Parliament as well as the Ministry of Defence who can deal with defence issues on equal terms. There can be no democratic control as long as a Parliament is ineffective.

The need for competent parliamentary staff has been recognized and work toward building this capability has begun, but it will take time. The Geneva Centre for the Democratic Control of Armed Forces has published a *Handbook for Parliamentarians. Parliamentary Oversight of the Security Sector: Principles, Mechanisms, and Practices* meant for use in the new democracies. The *Handbook* describes how Parliaments conduct their work. The *Handbook* has much to say about the relationship between them and Defence Ministries. It provides useful reading for parliamentary members and their staff. The work of establishing political collaboration between defence officials and parliamentarians can be initiated at the Ministry; it need not be begun by the Parliament. Democratic control brings a responsibility for the military to educate civilians in the government, parliament and media on military affairs, and it is incumbent on civilian officials to be prepared to learn, so that civilians and the military can collaborate effectively.

In order to be ready for those requirements when the Defence Ministry encounters the Parliament, ranging from budget and other committee hearings to parliamentary questions, the Ministry has to have an appropriate organisational structure, parts of which are specifically designed for relationships with the lawgivers, backed by a staff dedicated to this task, so that the 'principles, mechanisms, and practices' work as they should. Every Defence Ministry in the new democracies should have a well-staffed department, dedicated to parliamentary liaison and directed by a relatively senior official, e.g., a Parliamentary Secretary. Their Ministry's staff should collaborate with Parliamentary Committees and parliamentary staff, establishing routine, everyday working relations, providing information voluntarily, without waiting until it is demanded. Essential to long-range defence planning is a sound estimate as to what funding the Defence Ministry can expect over a number of years.

This requires the defence establishment to work with the Parliament, first to make its case for the annual budget and second (but equally importantly) to inform, explain, and justify the mid-term programmes and the long-term plans. A flow of information has to be sustained, not episodic. A Defence Ministry, for example, would be expected to issue a periodic medium- or long-term defence development; a regular, annual or biennial statement of defence policy, plans and implementation; a thorough presentation of its yearly budget (facts, numbers, and explanations) plus some explanatory material; and timely compilations, or summaries of statistics on overall Armed Forces strength; materiel and equipment data (purchases, inventories, disposals); and information on matters which are of concern to society as well as to the lawmakers.

Some Defence Ministries have a periodic *Report of the Minister of Defence to the Parliament*, informally called the *White Paper*. We will describe one of them, disseminated by Latvia's Defence Ministry. There is no legal requirement that requests the Minister to prepare the *Report*; the Ministry decided that it would be a good thing. The *Report of the Minister* gives a detailed presentation of the Ministry's activities in defence reform: priorities and planning methods, force structure and force development plans, defence budget forecasts, international and regional co-operation, assessment by foreign experts, and the relationship between the Armed Forces and society. The *Report* is also disseminated to other Ministries and the society at large to illustrate how

the Defence Ministry has been spending public funds and for what purposes. An English language version is sent to NATO offices, to defence staffs in Western ministries, and to experts at various public policy institutes. The form, content, and recipient list could be usefully studied at other Defence Ministries.

Essential to long-range defence planning is a sound estimate of what funding the Defence Ministry can expect over a number of years. This requires the defence establishment to work with the Parliament, first to make its case for the annual budget and second (but equally importantly) to inform, explain, and justify its mid-term programmes and the long-term plans. So that the Minister is ready to meet the Parliament, for Committee hearings or Parliamentary questions, the Ministry has to have an organisational structure. Without competence in the Parliament as well as in the Defence Ministry, without a knowledgeable civil service staff in both, without continuous collaboration between the staffs in the two institutions, there can be no proper exercise of power in the Parliament or effective planning in the Ministry. It does not matter how good in theory the democratic structures for control are if there are no competent civilians in the Ministry of Defence who can present in the Parliament of the Armed Forces' justifiable needs as long as it has no competent staff to deal with civil servants in the Ministries.

Force Development and Resource Based Planning

Three factors shape the transformation of the armed forces. First, there is the international and regional nature of security wherein the enlargement of NATO is the most important although not the only factor. Second, there is a country's overall national security and defence policy stated in its security, defence and military concepts. Third, there is defence economics: how much money a Defence Ministry gets in the annual defence budget and how much it can reasonably expect over a period of time. There is interplay among these factors; however, for many of the transition states, the third one dominates. The budget is the key and civilian policy makers hold it.

Civilians and the military develop a Defence Concept, as already related, which must clearly identify defence aspects of national security threats, assess risks, set out the strategic concepts and assumptions that will guide transformation of the Armed Forces, decide on a force structure, establish roles, missions, and capability requirements. Parliaments, as a rule, approve the Defence Concepts, and, having confirmed them, assume responsibility for supporting them. The Concepts provide guidance for defence planning in terms of priorities, and give a foundation for estimating expenses and financing priorities so that step-by-step defence transformation will be properly supported with adequate budgetary outlays. As long as defence is not sufficiently funded, plans will mean little. There are always competing demands for scarce resources that the decisions on how these resources are allocated are a political one, to be decided on at the cabinet level.

The reality of the situation, in terms of planning and funding support, has been very difficult. The experience of Armed Forces in the former socialist countries during most of the 1990's has been much the same, that of recurrent, severe funding shortages. They have had to extricate themselves from the rubble of a collapsed command

economy. In 1999, a group of senior Western defence advisers wrote that the low proportion of GNP allocated to defence in the Baltic states has been such as to frustrate internal military development. As the Baltic economies strengthened, the Governments set a percentage target of their GDP for defence expenditure which approximated to the NATO average of around 2 per cent. Politically, it was a highly necessary sign of their serious determination to join NATO.

Defence funding in other countries has been problematic. Defence Ministries prepare annual budget requests, which tend to be reduced by Parliaments without much consideration or discussion. Revenues are not collected as anticipated and the Treasuries are chronically short of funds. This result is a continuing dilemma for the Armed Forces, which do what they can with survival budgets, unable to carry out the necessary force structure, infrastructure, and equipment reforms. A clear signal that the Armed Forces are barely surviving is what they spend on personnel and maintenance in terms of the percentage of the annual budget. If that share of the budget is 80 per cent or more, the Armed Forces suffer severe difficulties. The military has been responsible for the dilemma, because it has attempted to maintain the old, large military formations. The Ukraine's Defence Ministry declared in 2002 that they have 'no more than five years until self ruination'. Civilians, notably the parliamentarians, share the responsibility. A Defence Minister can only do his/her utmost to convince policy makers that if deficient funding was to continue, it would, at best, bring stagnation and, at worst, disintegration.

We can, however, assume that the gap between requirements and appropriations will be narrowed, if not closed entirely. Once the direction in which a country will move as it reconstructs its new Armed Forces has been generally agreed upon, and basic decision over the size and force structures has been confirmed, the speed at which they can be built depends upon the level of financial support that they receive. The first important thing, as far as the Defence Minister is concerned, is to be certain that the Ministry will get the amount of money promised in the annual budget. There can be some alterations, provided that they are not severe. Next, there needs to be a reasonable certainty that the level can be sustained over an extended period of time. The level will be determined, directly, by civilian policy makers and, indirectly, by the rate of the country's economic growth. If defence allocations are tied to the gross domestic product, a decision that a number of Governments have made as a part of their plans for NATO accession, then long-term planning can proceed.

For using the funds well, the Government has to acquire a well-functioning resource management system. This is just as important as having realistic plans for the force structure; in fact, it is inextricably connected to plans which can be effectively implemented. In the countries that are moving away from authoritarian political systems and command economies, there is a great difficulty. It was already noted that socialist states with command economies conducted defence planning as detailed, coherent state plans, based in resource allocation, which was an efficient approach to directing a country's economic and demographic resources toward military requirements. However, it simply does not function in countries with free market economies and democratic systems where parliamentarians decide how much money the Armed Forces will receive.

Senior officers have been asked to undergo a fundamental reversal of their military philosophy. In all Warsaw Pact countries, this involved a very efficient approach to directing a country's economic and demographic resources toward military requirements. Evaluated strictly in terms of efficiency, it represents a better solution for military planning than anything that the West has devised. The latter, with all of its complexities and delays, its back-and-forth activity between ministries, cabinet meetings, and parliamentary committees, with intricate resource management, which can be disrupted by political compromises and delays, is inefficient to say the least. In a study of the Ukraine's security and defence reform, two knowledgeable Western observers concluded that what was needed was a total reform of the system to bring it more in line with market mechanisms and a cash economy. The Ukraine desperately needs defence accountants, a proper defence financial system, and a budgetary and planning process that understands real costs, provides predictive budgeting, sets priorities, and establishes a relationship between need, cost and effect. The system must bridge the gap between plans and budgets, by better identifying resource considerations into the planning process at all levels.

Western defence planners have developed a planning, programming and budgeting system, commonly abbreviated to PPBS. Developed in the United States and adjusted for European conditions, NATO has helped to introduce the system in Central Europe. It comprises of a short, medium, and long-term; commonly there are one, five, and ten-year segments. The short, one-year segment is for the budget; the medium term is for programming, and the long term is for planning. The three resource planning periods are aligned with force development, which also falls into the short, mid-range, and long-term categories, with a planning horizon extending to ten years. The PPBS is not a simple thing and it cannot be assimilated easily. The recipients should recognise that they do not have the expertise to introduce PPBS on their own and should seek outside assistance. The Baltic states have used outside expert teams and the Ukraine's Defence Ministry has received assistance from Denmark in the sphere of funding, long-term planning, programming, an international standard accounting system, financial control and auditing.

A survey of the experience of Defence Ministries in various countries on the implementation of the Planning, Programming and Budgeting System shows the following results. It is established as the basic resource management tool to ensure the effective utilization of available resources with proper authority, responsibility, and accountability at all levels of the defence establishment. The following objectives have been identified: a revised financial management structure delineating roles and responsibilities; updating and implementing financial procedures such as financial control and financial scrutiny, investment appraisal, and a new system of management information. A clear budgetary sequence needs to be established with management boards at appropriate levels and a senior management board, chaired by the Minister of Defence. Moreover, the Parliament and relevant Government agencies need to be continuously notified of tangible progress, updated calculations and priorities, and amended estimates of medium and long-term requirements.

The national economy and defence are more closely connected than other areas of governmental operations. Defence plans have to be closely linked to the

economic and demographic resources that a society has available. Therefore, a careful approach to its defence resource management is an imperative. There is more to the economy and defence than the amount of money available. First, Defence Ministries, unlike some other Ministries, by necessity have to make long-term plans, in Albania's case, up to 2010. Those who have been involved in this combined resource and force planning know that it is a demanding business with long-range horizons and complex analyses. Second, the entire conceptual framework of defence planning in the former socialist countries is entirely novel for them. They have to use a 'free market approach' in defence economics, closely bound to the 'democratic, political' one. As the new democracies move haltingly towards a free market economy, defence requirements have to be estimated for input to the Government's budget, stated in money terms, sent to the Parliament for approval and, after the 'political masters' have made their decisions, translated from money terms to support for personnel, weapons, equipment, supplies, training, and so forth.

Defence Ministries in Central and East European have had great difficulties with implementing effective budgetary, resource management, and planning systems. After many decades of a command economy, the former socialist countries do not have functioning methods of defence management. Even as the defence planners are reorienting themselves to working in a new political environment, they have to assimilate new methods of resource management.

The Ministry and the Government

A Defence Ministry works internally with the professional military, primarily in concert with the General Staff. It is required to develop a continuing engagement with the Parliament. The Minister is also a member of the Cabinet, follows the guidance of the Prime Minister, and coordinates policy implementation with fellow Cabinet members of other Ministers. In the contemporary security environment, the Defence Ministry's area of direct and shared responsibilities has enlarged significantly and, accordingly, so too has the need to co-ordinate policy. This can be illustrated by examples from the external and domestic spheres.

In external affairs, a Defence Ministry has to deal with the consequences of NATO enlargement. However, the EU is also a concern. We can assume that the objective of a country's policy is to join both or perhaps one of these organizations. Therefore, Defence, Foreign, and other Ministries get involved. Defence Ministers travel abroad and carry out important policy tasks. The Ministry has permanent civilian-military missions at international institutions, such as SHAPE and NATO. The demarcation line separating what is 'military' from what is 'political' is becoming less distinct. NATO, a military and a political alliance, is placing more and more emphasis on political issues. Meanwhile, the European Union has become more and more concerned with security and defence affairs. The Foreign Ministry in every country is the main location for carrying out relations with EU. It has to work with other Ministries to develop and implement policy, notably with the Defence Ministry.

We will outline a multi-year defence development program, carried out by Defence Ministries with NATO guidance. It is a compendium of annual programmes

from three countries. None of them have been accepted in the Membership Action Plan. All of them intend to join NATO and EU. They have undertaken to fulfil the following objectives. They will continue to improve public order and the market economy, giving special attention to the fight against corruption. They will encourage and develop respect for human rights, including minority rights. They will strengthen democratic institutions and their role in society and establish an efficient public administration. They will bolster civilian democratic control over the Armed Forces. They will uphold the results attained through economic reforms, particularly in the field of privatisation. They will continue the policies of good relations with neighbouring states, particularly in making use of regional programs. And they will be fully engaged in an internal control of weapons and disarmament. The Defence Ministry lists are very similar to what Foreign Ministries would develop keeping the EU in mind.

It could be assumed that that there would be considerable co-ordination of overall policy between the two international organizations at Brussels, particularly so because they have repeatedly declared that they are developing well-thought out security arrangements between themselves in the process of their enlargement. This, however, is not the situation. NATO, however, engages defence institutions in the target countries. Its programmes are largely military in nature and are developed by the MAP and PfP. The EU provides considerable expert assistance and financial support to many countries. But it does not do much to coordinate its efforts. Because it does not have well-developed international coordination mechanisms, the efforts of mission staff in each country tend to be limited. Moreover, despite its publicly stated concern about border security and other new threats, the EU has done little to initiate security programmes in the non-military parts of the security sector.

In relation to how a Government and a Defence Ministry might co-ordinate policy, one can look to the experiences, the successes, difficulties and lessons learned in other countries. Once a decision was made to exert all its energies to become a member of NATO, Latvia's Defence Ministry created the position of a NATO Executive Secretary and a separate NATO Integration Department. It also established a Cabinet level NATO Integration Council, chaired by the Prime Minister, with the Ministers of Defence, Foreign Affairs, Transportation and Finance as members. The Commander of the Armed Forces participated, as required, and so did representatives from other Ministries. Slovakia introduced a 'Preparation for NATO Membership' system that included co-ordination and review meetings of the Cabinet. The Romanian National Commission for NATO Integration met monthly at both the working level and quarterly State Secretary level to provide co-ordination, evaluation, and policy proposals to the National Defence Council.

This kind of a co-ordination system is necessary but it can become complicated. There are many high-level co-ordination bodies. Wherever there is a multiplicity of committees with overlapping tasks, there is a danger of constructing a bureaucratic maze in which responsibility for attaining hoped-for objectives can be lost. Slovakia and Latvia are small countries with small Governments and, as it happens, they were fortunate to have knowledgeable outside advisory groups. The dilemma of size and complexity plagues large Western organizations, notably multi-

national ones, such as NATO and the EU. In the transition countries, the dilemma is much deeper because there is still a palpable heritage of the authoritarian past. There is a notable tendency to establish large, high-level, top unwieldy committees. The top-heavy design obliges the engaged Ministries and agencies to direct time and resources toward supporting the co-ordination mechanism, not on getting the work done. There is the psychological residue of an authoritarian culture where inter-agency and inter-ministerial channels of communication were small and seldom used, where directives flowed downward and long, obscure documentation upward and where bureaucrats procrastinated. An aversion to information sharing severely hinders co-ordination at the working level. This kind of top-down vertical subordination, commonly known as stove piping, hinders work and produces ill-focused policies.

A study of the preparation process of a national security concept, a key document for policy guidance, in three countries revealed a very similar pattern. They were developed over a long time span. Essentially, each one was a compendium of interests and threats, as prepared by each ministry or agency having anything to do with security, extensive documentation listing many issues but without priorities and specific solutions. Despite the collective efforts, the concepts were of little use as a planning document. The dangers of displaying initiatives within the old system have left their mark and a cautious and slow way of responding is evident throughout the official sector'. A Western Ministerial task force would have assigned the basic work to a select, relatively small group, which would request assistance from a wider circle of experts, as required. The Ministers would review, amend, and adopt the draft product. But in the new democracies, the process is in the hands of cumbersome committees. The major lesson learned is for Ministries to deploy skilled staff to pull all efforts together. Staff should be able to work to formally and with counterparts in the Ministries and Directorates. These shared staffs have to do more than perform routine tasks, that is, they should be expected to arrange the appropriate documents for ministerial meetings. As required, they should offer analysis and policy options.

The second area of governmental co-ordination is non-military security policy, that is, the concerns of Interior Ministries, border guards, police agencies and law agencies, and other, related ones. The new democracies are transforming their security forces. In many of them, Interior Troops are being changed from military to a gendarmerie-type force, essentially an enhanced national police. State security institutions are being divested of prosecutorial functions. Civil emergency forces are employed to help respond to natural and man-made disasters. Border forces are no longer designed for military but are assuming the task of deterring illegal entrants and goods while facilitating up the movement of legal traffic. A principle embracing these changes is demilitarisation, the status and responsibilities that these organizations have in 'Euro-Atlantic societies'. The enlargement of international institutions greatly shapes the 'new security landscape'. To them, borders between states are of less consequence and some of them are being erased from the map, as in the EU area, others are lowered. Regional security is growing in importance, in the Baltic, the Balkans, and the Black Sea region. Regional security collaboration is a major security issue.

The past decade has witnessed the emergence of new threats to security, which are non-military but regional in nature and not restrained by borders. They involve corruption, organized crime, smuggling of weapons, drugs, human beings, contraband, and illegal migration. There are the larger threats of ethnic and religious conflict, terrorism, and the proliferation of weapons of mass destruction. This brings us to reform of the non-military sector of the security community — police, intelligence, border guards, and other agencies — is a critical part of the overall security reform agenda. The lines that demarcate areas of latent danger are no longer traced along borders, with military concentrations on either side of it. The new threats are multifaceted, with political extremism linked to organized crime and corruption. They separate societies and are not held back by state borders. They must be opposed regionally, with broad-based governmental co-operation, and contained by defence in depth.

Security now requires coordination with the Interior, Finance, Justice and other Ministries traditionally having domestic functions. The agencies subordinate to them have to co-operate on matters of border security, police powers, intelligence and counterintelligence, financial investigation, crisis management and, perhaps, disaster relief. However, since security has to be established on a regional basis, it engages the efforts of the Defence and Foreign Ministries. It is no longer possible to draw a clear distinction between external security and internal security. The notion of security and stability in Europe has changed over the last decade.

The dangers posed by the interconnected new threats have been recognized in the new democracies and in the countries of the 'Euro-Atlantic area'. The fact that there needs to be a co-ordinated effort among Government agencies and on a regional basis is evident. There has been some progress in the direction of domestic and cross-border co-operation. In this area, the international institutions, NATO and the EU, although they have frequently voiced their concern, have done relatively little. NATO has worked in the area of military reform. Within its area, the EU is doing away with borders, although it was concerned with having security at its perimeter. Its concern grows as the perimeter has come close to and even touched the edges of the areas which generate the new threats.

All national security concepts of the new democracies recognize the new threats. Parliaments have made laws in regard to some of them, such as for provisions on crisis management, in response to the possible dangers stemming from large-scale domestic disruptions or insurgencies close to the border of a country, or moving across it. However, the national security concepts have not been supplemented with more specific and more detailed concepts and policies like national defence policies and national military strategies for the armed forces.

To a certain extent, this shortcoming is the consequence of Western institutions and the development programmes that they have introduced in the new democracies. They have brought a complex and inclusive defence planning process, which begins with a national security concept and proceeds, step-by-step, to force development, resource based management, and procedures for formulating an annual defence budget.

No similar, well-developed process exists for developing countermeasures to the new security threats. Separate elements, or techniques of identifying and countering the new threats are adapted to consider the new ones. For example, the method of threat-and-risk assessment is included in the security planning process, which has been discussed in another chapter. The method is useful to a degree. NATO has developed crisis management. Essentially, it comes down to the political decisions of when, how, and whether NATO will get engaged in managing a crisis. It does not involve a quick response mechanism that can respond at short notice, and that is what the Governments of the new democracies require.

The threats have been identified, Governments, Ministries and their subordinate agencies are aware of them, countermeasures are being implemented, but there is no overall design, no specific national programmes, no long-term objectives, as is the case with defence development for PfP partners and MAP members. There is no immediate answer to this difficulty. The countries endangered by the new threats could, however, initiate an overall strategy, beginning with national Security Reviews, carried out along the lines of the already established Defence Review process.

Activities, such as putting together the Defence Ministry's annual budget, require considerable inter-agency co-ordination. A useful illustration can be given with the Ministry's agenda of preparation. It takes some nine months before the Cabinet presents the agenda to the Parliament as a part of the annual budget. What takes place is depicted in the scheme below. It is a repetitive process, with considerable back-and forth activity between the General Staff and the Ministry, then between the Ministries of Defence, Finance, and Economy, followed by more than one Cabinet review. All of this takes place before the budget goes to the Parliament.

We have already described why Defence Ministries need an effective method of resource management, or PPBS. It is not enough for it to function internally alone, for the Ministry's own utility. Resource management information has to be an integral part of the working relations with other sectors of the Government and the Parliament. Key Ministries, like Finance and the Economy, and Parliamentary Commissions, have to understand it. This is particularly important for a Parliamentary staff for two reasons. First, although the Parliament considers the annual defence budget, it must comprehend how annual requirements fit into the larger design of medium and long-term defence development. Parliamentary staff members (and experts in other Ministries) need not master all the intricacies of PPBS methodology, but they have to have a grasp of its basic elements.

The Ministry and Society

A statement that is repeatedly found in Western writings on the essentials of security and defence is that national security concepts must be known to and accepted by society as a whole so that it approves what security and defence requires in the long run. What society thinks about the country's security and defence policy will have an effect on the decisions made by policy makers. Societal views might not have an immediate influence, but in the long run they cannot be ignored.

It is not easy to discern precisely 'what society thinks' at any given instant. But in most of the transition states public opinion polls reveal societal attitudes there are institutions that carry out skilled polling and publish the results. Defence Ministries will find the results well worth studying. A quick survey of some polls taken over the last two years in the Baltic states, some Balkan countries, and the Ukraine shows similar results. Generally, the Armed Forces are trusted by society. Often, the majority of the respondents believe that defence budgets are inadequate. Although society has a positive view of the Armed Forces as representing the nation, public opinion tends to prefer small, professional forces and oppose conscription. In a number of cases, when questioned on NATO membership, a large proportion of the respondents indicated that they were insufficiently informed on what it involved and the consequences of membership.

Of particular importance to Defence Ministries are views on budget and force structure, that is, small, professional Armed Forces. Although positive views on Armed Forces are encouraging to read, public opinion on defence requirements, that is, the budget is the important one. Defence Ministries can and should arrange for public opinion polls, carried out by a professional, reputable institution. Ministries do not of course adjust their policies to polls. Parliaments do respond to public views, however. The purpose of surveying societal views is to discern longer-term trends. However, even a few well-conducted polls can reveal information which a Defence Ministry should take into account right away. For example, according to a poll carried out in 2002 by the Ukrainian Centre for Economic and Political Studies, some 40 per cent of the respondents thought information about defence reform was 'insufficient,' about 40 per cent believed that 'we are actually barred from trustworthy information,' and only slightly more than 4 per cent believed that 'a planned process of reform was taking place'. In fact, the Defence Ministry was, at that time, setting out on a course of reform. If defence officials discover large gaps in public knowledge, they must act to correct the state of affairs.

Every Defence Ministry should explain defence requirements and defence policy to society. The content should be comprehensive and objective. Ministries should disseminate documents to government offices and the Parliament. They should do the same for the media and society, in print and electronically. In order that policy makers and the public at large may be able to follow the development of its Armed Forces and understand its objectives, every Defence Ministry has to provide a continuous flow of information. It would contain documents such as national security concepts, defence concepts, military doctrines and force structure plans; documents on international policy, such as NATO integration strategies; and many others. A Report to the Parliament, or, a 'White Book' already mentioned is part of that stream of information. It benefits the defence establishment to provide this information since a well-informed public will understand and support the efforts of the Ministry and the General Staff.

How good is the overall performance of the new democracies in this area? It varies, but, in most cases, it is not adequate. At best, it is inadequate. Even to casual observers, shortcomings can be seen in the Ministerial electronic home pages, the place to which those interested in defence developments turn to first. They do not provide

much concrete information, although there seems to be no shortage of official photographs of uniformed Defence Ministry officials with medal ribbons. Some documents that in Western ministries are routinely disseminated to civilian and military staff remains classified or concealed in the new democracies. However, Defence Ministries forward the same documents on defence reform to NATO Headquarters; they are read by all NATO member-states, which is now 25 in number. Brussels probably disseminates, in English, more fundamental documents on defence in the MAP and PfP countries than their own Defence Ministries. Every country and every democracy will have its secrets and classified documents. But National Security Concepts should not be among them. There is no rational reason for this. They should be open documents, developed by the government, debated and accepted by the parliament, and known to the public. A study on transparency and accountability in the countries that intend to join NATO concludes: 'Certain governments seem more relaxed about informing other governments (and international organisations) about their defence business than about informing their own legislatures, civil society institutions and the population-at-large. It should not be like that. There should be no accolades for states that reveal more to foreigners than they do to their own people'.

The Defence Ministry should devise a far-reaching information and public relations strategy for external and domestic reasons. Brussels pays considerable attention to societal opinion on the membership question. The Governments of the hopeful candidates have to foster thoughtful public discussion over the obligations of membership and the costs involved and must appreciate the necessity of long-term support. When NATO appraised the accomplishments of those countries that hoped to be admitted to the Alliance in its second expansion round, the relationship between society and defence policy makers was an area of interest. The Dutch Foreign Ministry commissioned an inquiry: *Assessing the Aspirants for NATO Membership.* Concerning Latvia, the inquiry concluded that its Defence Ministry provided 'more than sufficient information' and that 'a huge amount of [official] documents were available on its website' which was evaluated as the most transparent and complete one of all Baltic defence and foreign ministries.

A Public Relations and Information Office has been established in Defence Ministries. A public relations strategy was formulated with the following long-term objectives: to gain public understanding of the resources required and expended, the priorities in defence development, and the elimination existing problems; to build public trust and confidence and raise the prestige of the Armed Forces. It also intended to help strengthen democratic development in society through open access to defence information and through developing an awareness of the concept of civilian control of the Armed Forces. Finally, and importantly, it was aimed at engaging the national government, as well as the local governments and non-governmental organizations, in a debate over society's need for defence, its costs, and responsibilities.

All this would bolster the necessary psychological development required by defence in a democratic society. The energetic public relations programme shaped public attitudes and opinion polls indicated growing support for the armed forces and defence expenditures. A recent publication on security reform in the Ukraine and Moldova concludes the section 'Agenda for Ukraine' with an observation: 'A shrewd

information policy will aim not to suppress information but to create trust'. In this case, 'astute' and 'perceptive' are appropriate synonyms for 'shrewd'. The Ukraine's policy makers should grasp, as some of them have grasped, a fundamental difference between dictatorial and democratic political systems. Dictatorships believe that power lies in concealing information; democracies know that it lies in the free dissemination of information.

We have dealt with society as a whole and can now consider 'civil society'. Civil society as an inclusive phrase takes in non-governmental organisations, the media, academia, and other entities. A generalised depiction of civil society could be as follows: 'That part of society which is interested in public affairs, public welfare, and makes its opinions known to all, to the nation's citizenry and to political leaders, in order to change the course of events for the better'. Civil society acts as an intermediary between the Government and society; it relates society's concerns to the Government and interprets the Government's actions to society. Western societies acknowledge that beyond the everyday work done by politicians, soldiers, and policy experts, society at large should accept the decisions proposed by governments. Its consent can be seen in public discourse, in the media, the academic community, in non-governmental organisations and, notably, in public policy institutes, which are independent but on occasions are requested by governments to provide their expertise. These are the characteristics of a civil society.

To the Defence Ministry, of particular interest are the public policy institutes, which deal with security and defence issues. They work with peer institutions abroad, and that's important for transitional societies. Civil society plays a crucial role, by providing information and advocacy on a wide variety of issues: national security policy, military strategy, weapons procurement, servicemen's rights, retiree benefits, and related issues. Policy institutes can also be a source of civilian experts for government positions, for work on specific analytical projects, and for independent advice and innovative perspectives. By now, every country has such institutions, some only a handful, others more. Some of them, although small, often working in concert with their large peer organisations in the West. Their emergence and work has positive developments. Although relatively few are active mainly in the defence area, they often do research and analysis of noteworthy quality. Defence Ministries will find them very useful, not in the least because they have connections with, and are conduits to, the powerful, international family of policy institutes of the West.

Finally, there is the media. Defence Ministries do not have comfortable relations with the media, but this is very much the situation in both the old democracies and the new. The media criticises defence officials for disseminating information and facts reluctantly and attempting to conceal all events that could place the Armed Forces or the Ministry in an unfavourable light. Defence Ministries tend to criticise the media for sensationalism, partisanship, and a lack of interest and comprehension of the fundamental problems of defence. The charges from the one side and the other contain considerable truth. However, public policy institutes, the media, and society as a whole, at least on some occasions, have begun to develop an engaged, critical public debate on defence reform. Defence Ministers have their press offices and representatives and it is up to them to carry out a process of informing and enlightening the press. However,

some innovative approaches can be useful. Latvia's Armed Forces decided on a special day for the media, where some of their representatives would gain direct experience of the life of a common soldier. They strayed at a training base for a day and a night, slept in barracks, ate what the soldiers ate, observed their training, were dressed in uniforms, and carried helmets and weapons (unloaded). Both sides declared that the event had been successful, rewarding, and was to be regularly repeated.

The Ministry and the Approaching West

The eastward movement of NATO and the EU has been compared to a slow tide, enveloping nearby countries, lapping at the edge of some, seen from the distance by others. But the international institutions do not control the flow. Whether a country will join it is a policy of the Government, a decision by the Parliament, and the choice of society. A country could intend to join the Alliance, or hesitate in making its decision, or prefer to establish relations which do not have membership as the ultimate goal. For these various situations, NATO has developed elaborate programmes, beginning with the Partnership for Peace. They have brought about intensive co-operation with many countries. However, the intensity of a country's engagement and its success in meeting various objectives will not, by itself, bring membership. Defence Ministries are the leading Governmental bodies in a country's transactions with NATO. They are in charge of day-to-day working relations and the Armed Forces are the institutions which are most closely engaged in them.

As NATO enlarges it has changed, responding militarily to a changing security environment. When its outward movement began, NATO had a Strategic Concept developed in 1991. A revised Concept was issued in 1999, at the Washington Summit, which identified new risks and threats, recognized crisis management as a major concern, and included out-of-area or 'non-Article V' missions. Territorial defence remains the Alliance's core function. But NATO simply can no longer protect its security without addressing potential threats that arise far from home and a thoroughgoing reorganisation of how it plans operations and generates forces for the new missions. All aspirant countries that intend to join NATO have to harmonize their defence establishments with the Alliance's structure, without wholly replicating them.

As to the political requirements, they were first stated in the Study on Enlargement in 1995. A country that hopes to join NATO has to observe definite rules of behaviour in its domestic policy and in the relations with its neighbours. It has to have demonstrable civilian control over the military and provide economic wherewithal to reform and sustain its armed forces and there is guidance about defence preparations for membership. States which have ethnic disputes and conflicting territorial claims have to settle their disagreements peacefully. It should participate in Partnership for Peace exercises, contribute to regional security, and engage in international peacekeeping missions. Fulfilling these conditions did not necessarily guarantee membership. Decisions would be made on a case-by-case basis.

The subsequent Membership Action Plan or MAP of 1999 lists more detailed requirements than the Study. MAP aims at improving defence planning for prospective members. A candidate submits annual national defence plans to NATO, setting out in

detail defence reform activities. These include planning force improvement, defence resource management, economic policy, and improvement of interoperability of armed forces so that they can carry out missions identified in the NATO Strategic Concept. NATO provides evaluation of a country's progress, provides technical and political guidance, and supplies defence planning expertise. The assistance is meant to overcome a lack of experience among civilians and the military in defence planning and bolster the sectors where civilian and military expertise is thin in some areas.

NATO makes a political decision to accept countries in the MAP although this decision is not a definite promise of certain future membership. However, although a country might not be offered MAP membership, it could have various defence cooperation programmes that are very intense and demanding. The Ukraine is a case in point. In 2002, the Ukraine hoped to be accepted in the MAP but received a surrogate, the NATO-Ukraine Action Plan. Its purpose was to identify clearly Ukraine's strategic objectives and priorities in pursuit of its aspirations towards full integration into Euro-Atlantic security structures. It was formulated to provide a strategic framework for existing and future NATO-Ukraine relations. The Action Plan has generated two NATO-Ukraine Target Plans, for 2003 and 2004. Essentially, they were very similar in content to the annual plans prepared by the MAP countries. They list general objectives and specific actions that Ukraine must undertake. The 2004 Target Plan has 64 Objectives and 229 Actions.

Even before the Action Plan, the Ukraine had developed a remarkably thorough activity programme through its membership in the Partnership for Peace and the Planning and Review Process. NATO evaluated the Ukraine's armed forces and provided information on defence policies, the democratic control of the armed forces, and relevant financial and economic plans. A Joint Working Group on Defence Reform is a NATO-Ukraine permanent consultation mechanism aimed at cooperation in defence and security sector reform. It serves as a forum for the Ukraine and the NATO allies to share common reforms such as defence planning. The Joint Working Group was instrumental in the ratification of the PfP Status of Forces Agreement, the creation of the NATO-Ukraine Security Agreement, the Ukraine's signing of the Host National Support Agreement, and the establishment of the Partnership Training Centre. It also served as an advisor for the State Program of Reform and Development of the Armed Forces. The Ukraine has focused on civil-emergency planning as one of the more concrete areas of its cooperation with NATO.

The sheer number of programmes does not necessarily add up to significant progress. The plan has received mixed reviews. A study of the Ukraine and NATO describes the NATO-Ukraine Action Plan and Annual Target Plans as documents with 'uninspiring substance'. Behind the plans, there is little analysis of the Ukraine's situation, few definite and clear objectives, and inadequate implementation programmes. The work tends to veer toward 'successfully completing' procedures--that is, holding conferences, developing proposals, and passing laws.

Much of the Action Plan is developed in the Ukraine's Defence Ministry but it is reviewed and approved by NATO at Brussels. The principal structure for directing activities is the NATO Ukraine Commission. It adopts the Annual Target Plan which contains 'jointly agreed principles and objectives'. It monitors progress. It has five

NATO-Ukraine Joint Working Groups that draw up the yearly Target Plans: A Group on Defence Reform, on Economic Security, on Civil Emergency Planning, on Science and Environmental Protection, and on Armaments. The fact is that NATO is a bureaucracy, by nature and by necessity. It is a huge place with international and military staffs, directorates, divisions and offices. Individually, they promote projects and programs which fit into their particular annual programmes and budget allocations without necessarily analysing the priority requirements of a recipient country.

There have been problems with advice from supporting states and from NATO, an issue that seldom is mentioned in Western publications. The following opinion comes from Brigadier General Clemmesen of the Danish Army. He is the Commandant of the Baltic Defence Academy and before that he served as the Defence Attaché to the Baltic States. His knowledge of defence reform in the former socialist states is deep and long. According to Clemmesen, the advisors and support project officers arrive eager to perform well during the months they work here. However, they are unfortunately only too likely to be without any prior knowledge or understanding of the [local] defence problems. They only know their own system that mirrors the development of their own forces and the politico-economic and geo-strategic requirements of their own state of recent years. Most stay for too short a time to be able to learn differently and others find it difficult to accept what they learn. Many of the supporting officers seem to possess very little knowledge about earlier support and advice initiatives. Where such knowledge does exist, the work previously done is too often rejected out of hand.

All this Western assistance is well meant, some of it can be quite useful, most of it has not been co-ordinated, and there can be too much of it. As requirements directed toward the new democracies have burgeoned, various Western assistance programmes have proliferated. These are multilateral, bilateral, and sometimes come into view as initiatives of independent Western institutes. For example, in 2001 the Ukraine had some 250 multilateral and 500 bilateral programmes with NATO Allies. NATO Target Plans have added to them. The Baltic states were also inundated by a wave of outside expertise. According to an expert review of this invasion by experts, the Baltic civilians and the military in their Defence Ministries were not [always] helped in their work by the plethora of advice and assistance, often uncoordinated and short-term in nature, offered by supporting nations and organisations, nor by the stream of visitors who have to be looked after, and of external meetings which have to be attended.

With many new members states entering the Alliance, the number of people, civilians and the military, is continuously augmented and new directorates and divisions are being added. What will take place during the next years is the encounter of two bureaucracies, in Brussels and in the capitals of the new democracies. The two have different mentalities and ways of behaviour. One can be condescending toward bureaucracies, yet they remain the institutions in which and through which we conduct our business. Therefore, Defence Ministries have to study, closely, the habits and procedures of the Western bureaucracy and investigate NATO and the EU in terms of their particular institutional behaviour. Nowadays, we often hear about strategies, the

grand frameworks for achieving far-reaching domestic or international change. Tactics, seldom mentioned, are just as important, if not more.

This does not mean that Defence Ministries should not engage Western expert advice, quite the contrary. It is precisely the experienced senior military commander or public servant who can give invaluable advice to Governments and Defence Ministries. The best, most successful example is the International Defence Advisory Board, which was set up under the chairmanship of General Sir Garry Johnson in 1995 at the request of the Foreign and Defence Ministers of Estonia, Latvia and Lithuania with the objective of offering strategic advice to the Governments of the Baltic states in the field of security sector reform. The Board was to allow single membership from a number of countries most relevant to the aspirations of the Baltic States: in addition to the United Kingdom, these were seen as being the United States, Germany, Denmark, Norway, Sweden, Finland and, later, France. The members were all senior and respected national figures from a range of backgrounds in the security sector. The collective background of the Board covered high rank experience in international organisations such as the UN and NATO, in all functions of the military and the security sphere, in diplomacy, and in the field of politics, NGOs and institutes.

The Board worked at the strategic level directly reporting to Heads of State and Ministers in the receiving nations. It was specified that no Board member held a position in his own government agencies, thus allowing the advice offered by the Board to be independent and objective and not constrained by the national interests of the supporting nations. There was to be no permanent office, no secretariat and a minimum of paperwork. Funding for the Board was a simple arrangement: supporting nations would meet the costs of their Board member and the receiving nations would fund the in-country costs during Board visits. The Board carried out a regular programme of visits to the receiving countries, at intervals of around a month or six weeks at the most. This arrangement worked efficiently and well in the Baltic States where the programme was brought to a close in 1999, by which time the reform process was embedded and the three nations were well set on the path to membership of NATO and the EU.

Chapter 7

Arrangements and Practices to Ensure Compliance with Internationally Accepted Norms and Practices Established in the Defence Sector

Dr. Victor-Yves Ghebali

Introduction

Within the politico-military dimension of its comprehensive security program, the OSCE has developed an impressive array of norms, commitments and practices related to the defence sector. Its corpus forms a global regime requiring from states, in conformity with the rationale of the OSCE's 'co-operative approach', self-restraint, transparency and mutual accountability.[1] According to a well established tradition, all the elements of that corpus are 'politically binding' obligations, a notion whose real meaning is not always clearly understood. In international relations, state behavior is currently regulated by both legal and non-legal agreements. When entering into non-legal agreements, states intend as a rule to comply with them and expect the same behavior from each other. The practice of follow-up and implementation procedures for such texts also supports that assumption.[2] Politically binding agreements offer to governments a number of advantages. They do not have to be submitted to

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[1] Within the OSCE, there is no formal definition of "co-operative security". However, the common understanding seems to be that such a type of approach excludes confrontation, hegemonic behavior and unilateralism, while prescribing: equal partnership, confidence, mutual accountability, solidarity, preventative action, self-restraint and military transparency. For instance, the Lisbon Declaration on Common and Comprehensive Security Model for Europe for the Twenty-First Century (1996) affirms that the co-operative security approach "excludes any quest for domination" (§ 3) and refers to "equal partnership", "solidarity" and "transparency" (§ 9).

[2] Michael Bothe, "Legal and Non-Legal Norms – a Meaningful Distinction in International Relations", *Netherlands Yearbook of International Law*, Volume XI, 1980, pp. 68 and ss.

parliamentary approval and are easier to monitor.[3] At the same time, their flexibility allows governments to retain 'some possibility of a way out where a situation is still fluid'.[4] Anyhow, an international commitment does not need to be legally binding in order to have a binding character.[5]

The various existing instruments stand either as 'Principles', 'Code' or 'Document'– or even just a 'Decision'–of the Forum for Security Co-operation (FSC), the OSCE's specialized decision-making body. They were developed in the fundamental fields of *arms control*, *confidence and security-building measures* (CSBMs) and *security sector governance*. While the OSCE can be credited for significant and even pioneering normative achievements in CSBMs and security sector governance, its contribution to post-Cold War arms control and disarmament has been of a rather limited nature. This is due to the fact that the 1992 Treaty on Conventional Armed Forces in Europe (CFE) and the 1992 Treaty on Open Skies are non-OSCE regimes. Although negotiated under the umbrella of the OSCE, the first instrument was meant to engage only the NATO and (the former) Warsaw Pact countries, developed independently from the OSCE. The second one links only 31of the latter's participating States. It is proposed here to offer an analytical survey of the whole set of OSCE politico-military normative texts and operational mechanisms,[6] as well as of the major trends of their implementation across the OSCE area.

Table I: OSCE instruments related to the defence sector

Arms Control	CSBMs	Security Sector Governance
Principles Governing Conventional Arms Transfers (1993)	Global Exchange of Military Information (1994)	Code of Conduct the Code of Conduct on Politico-Military Aspects of Security (1994): Sections VII and VIII
Principles Governing Non Proliferation (1994)	Vienna Document on CSBMs (1999 update): whole text	Vienna Document on CSBMs : Section II (Defence Planning)

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[3]   Peter Koojmans, "The Code and International Law", *Cooperative Security, the OSCE and its Code of Conduct*, Gert de Nooy (ed.), The Hague, Kluwer Law International, 1996, pp. 35 and 37.

[4]   Bothe, *op. cit*., p. 91.

[5]   Koojmans *op. cit*., p. 34.

[6]   The analysis excludes the three *sub-regional* CSBMs/arms control instruments framed in accordance with the 1995 Dayton Framework Peace Agreement: the Vienna Agreement on CSBMs in Bosnia and Herzegovina (26 January 1996), the Florence Agreement on sub-regional arms control (14 June 1996), and the Vienna Concluding Document on arms control in and around Yugoslavia (18 July 2001). Nor does it address the partial regimes developed between two or more States in the OSCE area. For a comprehensive overview of sub-regional and bilateral regimes that exist in the OSCE area, see FSC.GAL/50/05 of 3 May 2005.

FSC's Decision concerning a Questionnaire on the ratification process of the 1993 Chemical Weapons Convention (1996)		
FSC's Decisions on a Questionnaire related to anti-Personnel Landmines (1997 and 2004)		
Document on Small Arms and Light Weapons (2000) and complementary FSC decisions		
Document on Stockpiles of Conventional Ammunition (2003) and complementary FSC decisions		

Arms Control Instruments

The OSCE instruments adopted in the field of arms control deal with: arms transfers, non proliferation, chemical weapons, anti-personnel landmines, small arms and light weapons (SALW) and stockpiles of ammunition. These instruments have some human security ramifications.[7] With one exception (that of the declaratory 'Principles Governing Non Proliferation'), they all concern conventional weapons. Globally considered, they define three different kinds of politically binding obligations:

Reporting on ratification processes of arms control instruments. Through the 1994 declaration on 'Principles Governing Non Proliferation', the participating states expressed determination to implement their respective existing international undertakings related to nuclear, chemical and bacteriological weapons. These were: the 1968 Treaty on the Non-Proliferation of Nuclear Weapons (NPT); the 1925 Geneva Protocol for the Prohibition of the Use of Asphyxiating, Poisonous or Other Gases, and of Bacteriological Methods of Warfare; the 1972 Convention on the Prohibition of the Development, Production and Stockpiling of Bacteriological and Toxin Weapons and on Their Destruction (BTWC); the 1993 Chemical Weapons Convention (CWC); as well as the 1987 Missile Technology Control Regime (MTCR) on the transfer of vector bacteriological weapons and vector missiles. They also agreed to reflect the appropriate

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7   Some experts stress that the Principles on Conventional Arms Transfers, the Document on SALW and the Document on Stockpiles of Conventional Ammunition contain provisions motivated by or addressing human security concerns. See Heinz Vetschera, "The Future of the Politico-Military Dimension – From Arms Control to Force Control", *The Reform of the OSCE Fifteen Years After the Charter of Paris for a New Europe: Problems, Challenges and Risks*, Victor-Yves Ghebali and Daniel Warner (eds.), Geneva, HEI/PSIO (forthcoming).

international norms in their national legislation, regulations and procedures.[8] The aim of the text was not the creation of an international control regime, but just to encourage the development of more effective national control mechanisms based on commonly-agreed guidelines.[9]

The participating states went one step further when, in 1996, they decided to establish an annual exchange of information (by means of a standard questionnaire) on the status of their ratification process for the Chemical Weapons Convention.[10] Shortly after, they adopted a similar decision as regards adherence to the 1997 Ottawa Convention on the Prohibition of the Use, Stockpiling, Production and Transfer of Anti-Personnel Mines and on Their Destruction, as well as the 1996 amended Protocol II on Landmines, Booby-Traps and Other Devices to the 1980 Convention on Certain Conventional Weapons (CCW or 'Inhumane Weapons').[11] In 2004, the questionnaire on anti-personnel mines was updated in order to include *voluntary* information on the progress towards ratification of the 2003 Protocol V on Explosive Remnants of War (ERW) annexed to the 1980 Convention on Conventional Weapons.[12] The adoption of such minimal obligations in relation to chemical weapons and landmines is best explained by the divergent positions held by the OSCE's participating states on both issues.

Exchange of information on actual transactions and policies. The OSCE participating states have agreed to exchange substantial information on the transfer of conventional arms and the illicit trade of Small Arms and Light Weapons (SALW). In 1993, through a declaratory text entitled 'Principles Governing Conventional Arms', they pledged to observe the principles of self-restraint and transparency in the transfer of such weapons (including of related technology) and to reflect them in their national policy documents.[13] Following the conclusions of an OSCE Seminar on that matter, during which an *ad hoc* exchange of information took place, the FSC decided to institutionalize the latter on a yearly basis, by means of a standard questionnaire.[14] From 1998, they also agreed that the relevant information would be communicated according to the categories and forms established by the (voluntary) United Nations Register of Conventional Arms.[15] Henceforth, the OSCE participating states have been exchanging annual information on seven categories of major conventional arms: battle tanks, ACVs (armored combat vehicles), large caliber artillery systems, combat aircraft, attack helicopters, warships (including submarines) and missiles, and missile launchers, which actually means the essentials of the global arms trade. This regime

8   The text of the OSCE Principles Governing Non Proliferation forms Chapter VI of the "Budapest Decisions 1994".

9   See Zdzislaw Lachowski, *Confidence- and Security-Building Measures in the New Europe*. Oxford, Oxford University Press, 2004, SIPRI, Research Report No 18, p. 103.

10   FSC.DEC/5/96 of 26 June 1996.

11   REF FSC.DEC/14/97/Corr. of 3 December 1997.

12   FSC.DEC/7/04 of 24 November 2004.

13   The text of the OSCE Principles on Conventional Arms Transfers appears as Annex 3 to the FSC's Journal No 49 of 24 November 1993.

14   FSC.DEC/14/95 of 19 July 1995.

15   FSC.DEC/13/97 of 16 July 1997 and FSC.DEC/8/98 of 4 November 1998.

represents the OSCE's collective contribution to the United Nations Register of Conventional Arms.[16]

In the next decade, out of concern for the excessive and destabilizing accumulation and uncontrolled dissemination of SALW, the participating states adopted the 'Document on Small Arms and Light Weapons' (2000).[17] Admittedly, the problem was not exclusive to the OSCE area. However, the major world producers and exporters countries of SALW were located there, as well as surplus stocks from the cold-war period. Furthermore, several participating states (especially Albania, Bosnia and Herzegovina, Croatia, Georgia, Moldova, Georgia and Tajikistan) were seriously affected by the plague.[18] The OSCE Document established norms, principles and measures aimed at covering: manufacture, marking, record-keeping, export control criteria, commercial and non-commercial imports, exports documentation and procedures, brokering activities and secure management of national stockpiles. Its provisions committed the participating states to ensure that SALW are produced, transferred and held only in accordance with 'legitimate requirements for national and collective defence, internal security and participation in peacekeeping operations under the Charter of the United Nations or in the framework of the OSCE' (art. I.3.ii), as well as in conformity with international and regional export criteria, beginning with those provided for in the 1993 OSCE Principles on Conventional Arms Transfers. More specifically, it required them to combat illicit traffic by means of effective national controls on manufacture, (Section II), exports (Section III) and stockpile management (Section IV).

Given that one third of the SALW trade in the world follows illicit channels, Section II deals solely with the manufacture, the proper marking and accurate record-keeping of SALW; essentially, it aims at ensuring the traceability of any item manufactured on or outside the territory of a participating state. As from 30 June 2001, they exchanged information on their national marking systems. Addressing licit transfers and illicit re-exports, Section III offers common criteria prescribing avoidance of exports to countries where SALW might be used to: repress human rights, prolong or aggravate existing armed conflicts, contribute to regional instability, or support or encourage terrorism.[19] In order to prevent loss through theft, corruption or neglect, Section IV commits the participating states to ensure that their SALW stockpiles (including decommissioned or deactivated weapons) are subject to proper – but discretionary – national inventory accounting and control procedures and measures. At the same time, while confirming the right of each state to freely assess whether its

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[16] The United Nations Register was established following a General Assembly resolution on "Transparency in Armaments" adopted on 6 December 1991 (A/RES/46/36/L). Thus far, a total of 164 States have complied one or more times with the Register's requirements.

[17] Text of the Document : FSC.DOC/1/00 of 24 November 2000.

[18] On the Albanian case see FSC.DEL/103/00 of 3 April 2000, FSC.DEL/121/00 of 4 April 2000, FSC.DEL/393/00 of 13 September 2000 and FSC/AIAM/01 of 1 March 2001. As regards Moldova, see FSC.DEL/133/00 of 5 April 2000.

[19] Actually, a major weakness of Section III's arrangements is that it requires reporting only for "exports to, and imports from, other participating States" while a significant part of SALW is exported *outside the OSCE area*.

holdings include a surplus, its provisions clearly declare that SALW in excess as well as those illicitly trafficked and seized by national authorities should, by preference, be destroyed (art. IV.C.1).

In addition to measures prescribed at the domestic level, the document provides for 'transparency measures' through a complex series of *baseline*, *annual* and *irregular* (updating) multilateral exchanges of information concerning: national marking systems (II.D.1); imports to and exports from other OSCE participating states (III.F.1); export policy, procedures and documentation; control over brokering (III.F.2); numbers of small arms seized and destroyed (IV.E.1); national procedures for stockpile management and security (IV.E.2); and finally, destruction techniques and procedures (IV.E.3). In 2002, following the lessons drawn from the first batch of information exchanges, a 'Model Answer' was adopted by the OSCE as its regional contribution to the United Nations' 'Program of Action to Prevent, Combat and Eradicate the Illicit Trade in Small Arms and Light Weapons in All its Aspects'.[20]

Table II: Exchange of information required under the OSCE SALW Document

Baseline data (2001) to be updated when necessary	Annual exchange of information
National marking systems used in the manufacture and/or import of SALW (art. II. D.1).	SALW exports to and imports from other OSCE participating states during the previous calendar year (art. III.F.1).
National legislation and current practice in SALW export policy, procedures, documentation and brokering controls (art. III. F.2).	Category, sub-category and quantity of SALW identified as surplus and/or seized and destroyed on the territory of OSCE participating states during the previous calendar year (art. IV.E.1).
National stockpile management and security procedures (art. IV.E.2).	
Techniques and procedures for the destruction of SALW (art. IV.E.3).	

In the immediate aftermath of the 9/11 terrorists attacks against the United States in 2001, the SALW Document regime was strengthened by the FSC by means of decisions aimed at reducing the risk of diversion of SALW into the illicit market, *inter alia* for terrorist purposes. In 2003-2004, two successive decisions addressed the threats posed by the unauthorized proliferation of and use of Man-Portable Air Defence Systems (MANPADS) through principles for export controls of MANPADS drawn

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[20]   FSC.DEC/9/02 of 3 July 2002. Actually, the OSCE Document (November 2001) was adopted shortly in advance of the UN Program (December 2001). Its provisions are generally similar to the latter and, sometimes, contain much broader commitments as regards export control and post conflict rehabilitation.

from the Wassenaar Arrangement's 'Elements for Export Controls of Man-Portable Air Defence Systems'.[21] In 2004, another FSC decision provided for 'standard elements of end-users certificates and verification procedures for SALW exports'[22]. It was accompanied by a decision on 'principles on the control of brokering in SALW', building upon the relevant provisions of the 2001 United Nations Protocol Against the Illicit Manufacturing of and Trafficking in Firearms, their Parts and Components and Ammunition, supplementing the United Nations Convention against Transnational Organized Crime.[23] The OSCE also issued a compendium of eight manuals (each of which was drafted by one or more of the participating states) reflecting the structure of the SALW Document and drawing on the information exchanges.[24] The compendium proposed model practices to offer guidance for national policy-making and encourage higher common standards of practice within the OSCE area.

Table III: Contents of OSCE's *Handbook of Best Practices on SALW* (2003)

Title and reference	Author (s)
Best Practice Guide on National Controls of SALW (FSC..GAL/43/03/Rev.3/Corr.1 of 19 September 2003).	Russian Federation.
Best Practice Guide on Marking, Record-Keeping, and Traceability of SALW: (FSC.GAL/64/03/Rev. 2/Corr.2 of 19 September 2003).	France.
Best Practice Guide on National Procedures for Stockpile Management and Security: (FSC.GAL/14/03/Rev. 2/Corr.1 of 19 September 2003).	Spain, Switzerland and United Kingdom.
Best Practice Guide on National Brokering Activities (FSC.GAL/63/03/Rev.2/Corr.1 of 19 September 2003).	Germany and Norway.
Best Practice Guide on Export Control of SALW (FSC.GAL/4/03/Rev. 1/Corr.1 of 19 September 2003).	Finland.
Best Practice Guide on the Definition and Indicators of Surplus of SALW (FSC.	Germany.

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[21]   FSC.DEC/7/03 of 23 July 2003 and FSC.DEC/3/04 of 26 May 2004.
[22]   FSC.DEC/5/04 of 17 November 2004.
[23]   FSC.DEC/8/04 of 24 November 2004.
[24]   *Handbook of Best Practices on SALW*. OSCE, 2003, p. 137. See http://www.osce.org/publications/fsc/2003/12/10621_29_en.pdf

GAL/36/03/Rev. 3 of 19 September 2003).	
Best Practice Guide on National Procedures for the Destruction of SALW (FSC. GAL/26/03/Rev. 2/Corr.1 of 1 October 2003).	Canada, Netherlands and USA.
Best Practice Guide on SALW in Disarmament, Demobilization and Reintegration (DD&) Processes (FSC. GAL/79/03/Rev. 1 of 30 September 2003).	Sweden.

Finally, it should be mentioned that, through the 2000 Document, the participating states recognized that the accumulation and uncontrolled spread of SALW can impede conflict prevention, complicate conflict resolution and destabilize the security environment in a post-conflict situation. As a consequence, Section V of the Document integrated the issue of SALW into the OSCE's activities in the cycle of conflict management by allowing the OSCE to provide (in response to specific requests) assistance on the security and management of stockpiles, to assist with the reduction and disposal of SALW, to offer advice on border controls aimed at reducing illicit trafficking, and so on. In 2002, the OSCE adopted a decision establishing for such purposes specific procedures through a coordinated action by the FSC and the Permanent Council.[25]

Assistance to states facing security risks related to stockpiles of conventional ammunition. Following a joint French-Dutch initiative, the FSC elaborated what constitutes the OSCE's most recent arms control text : the 'Document on Stockpiles of Conventional Ammunition (2003)'.[26] The rationale of the text was twofold. On the one hand, the existence in the OSCE area (more precisely in the former Soviet space) of large amounts of military hardware in surplus and/or awaiting destruction because of its obsolescence was posing to the host countries evident security and environmental threats, while also concerning the rest of the participating states because of the possible diversion of such hardware to terrorists and criminal groups. On the other hand, the new instrument was expected to fill a gap in the SALW Document regime which (although containing provisions on the management of stockpiles of weapons in surplus) excluded ammunitions from its basic definition of 'SALW'. The 2003 Document did not propose specific norms. It just established a voluntary mechanism in the framework of which concerned participating states could, upon request, obtain international technical and financial assistance for the destruction and/or safer management of their stockpiles of conventional ammunition, explosive material and detonating devices of land, air and sea-based weapons systems, as well as ammunition

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[25] FSC.DEC/15/02 of 20 November 2002 ("Expert advice on implementation of Section V").

[26] Text of the Document : FSC.DOC/1/03 of 19 November 2003. French-Dutch proposals: FSC.DEL/568/02 of 22 October 2002 and FSC.DEL/568/02/Rev.1 of 12 November 2002.

for SALW, major weapons and equipment systems (including missiles), rockets and landmines.

Although recognized as a new type of cooperative arrangement aimed at solving problems which not so long ago were perceived as an internal matter, the 2003 Document has harshly been criticized by some experts.[27] First, it does not provide for any mandatory information exchange. Accordingly, its contribution to 'transparency' in arms control is, to say the least, most limited. Second, given that the amounts of weaponry required for terrorist purposes 'are normally not of a dimension which would correspond to the stockpiles of ammunition or explosives (…) to be eliminated under international assistance' (and might just be diverted from regular stockpiles under well-established security procedures), it has little practical relevance for the issue of terrorism.[28] Third, it disappointingly falls short of complementing the OSCE Principles on Conventional Arms Transfers and the SALW Document since it evades the issue of *non proliferation* of ammunitions for conventional arms and weapons systems. Referring to it as a missed opportunity, Heinz Vetschera has bluntly stated that 'one could come to the cynical conclusion that the [Document] allows States to sell off surplus ammunition to non-descript clients, including those where the respective weapons systems could no longer be exported to, due to legal constraints [and] if at the end of the day they can no longer find a buyer for their scrap ammunition, they are free to turn to other OSCE participating States to finance their disposal'.[29]

CSBMs Instruments

In this field, the central OSCE achievement is represented by the 'Vienna Document on Confidence and Security-Building measures 1999'. It is complemented by a separate and special 'Global Exchange of Military Information' (GEMI) regime established in 1994.

Vienna Document on CSBMs. Adopted in 1990, and subsequently updated in 1992, 1994 and 1999, the Vienna Document regime is certainly the most sophisticated of all OSCE politico-military commitments.[30] It offers a large variety of measures covering the 'core aspects' of military security threats in Europe.[31] According to their

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[27] Heinz Vetschera, "A Missed Chance – The OSCE Document Regarding the Security Risks Arising from Stockpiles of Ammunition and Explosive for Use in Conventional Armaments in Surplus and/or Awaiting Destruction in the OSCE Area", *The Politico-Military Dimension of the OSCE: Arms Control and Conflict Management Issues*, Victor-Yves Ghebali and Daniel Warner (eds.), Geneva, HEI/PSIO, 2005, pp. 142-151.

[28] *Ibid*., p. 146.

[29] *Ibid*., p. 148.

[30] Text of the Vienna Document : Annex to FSC.JOUR/275 of 16 November 1999. The Vienna Document is an expanded version of the (Cold War-era) Stockholm Document of 1986. For an analytical overview on the Vienna regime, see Lachowski's book (*op. cit.*) and Henning Spiess, "Vienna Document 1999 : Review, Status and Perspectives", *The Politico-Military Dimension of the OSCE : Arms Control and Conflict Management Issues*. Victor-Yves Ghebali and Daniel Warner (eds.), Geneva, HEI/PSIO, 2005, pp. 65-107.

[31] Spies, *op.cit*. p. 79.

specific goals, its CSBMs can be grouped into four categories. A first category is represented by what might be called *'information-oriented CSBMs'*, that is to say CSBMs providing for a regular flow of military information. Their rationale is to increase the understanding of national military strategies/doctrines and the predictability of military intentions of states. Through an 'Annual Exchange of Military Information', the OSCE participating states disclose basic data on the size (manpower), structure (organization) and training of armed forces, major weapons and equipment systems as well as deployment plans for such weapons and systems.[32] As pointed out by Lachowski, most of the data exchanged in that exercise has traditionally been classified as top secret.[33] In addition, data is to be submitted on defence planning and military budgets on the basis of the categories set out in the 1980 United Nations 'Instrument for Standardized International Reporting of Military Expenditures'; participating states must report their defence expenditures of the preceding fiscal year, as well as budget figures on the forthcoming fiscal year, the two fiscal years following the forthcoming fiscal year and the last two years of the forthcoming five fiscal years.[34] In line with the same fundamental goal of openness, 'annual calendars' of scheduled military activities have also to be exchanged.[35] Finally, participating states are bound to notify (on a case-by-case basis) actual military activities responding to certain parameters in terms of size and equipment.[36]

The second category pertains to *'communication-oriented CSBMs'*, in other words CSBMs establishing various forms of direct contacts between military establishments with the purpose of allowing governments to interpret correctly their mutual intentions. It is illustrated by such activities as: on-site observation of military activities; visits to normal peacetime air bases; exchanges of visits between members of the armed forces at all levels; joint military exercises or training; or demonstrations of new types of major weapons and equipment systems.[37] The third category is made up of *'crisis management CSBMs'* whose possible implementation rests upon "risk reduction" mechanisms for the clarification of "unusual" (i.e. unscheduled) military activities and 'hazardous incidents' of a military nature, and also through voluntary hosting of visits to dispel concerns about military activities.[38] The last category is that of *'constraining CSBMs'*, a hybrid combination of CSBMs and arms control since it imposes time constraints on the planning and actual conduct of military activities. Such CSBMs prescribe that no more than one large-scale military activity (over 40 000 troops or 900 battle tanks) subject to notification can take place within three calendar years, that no more than six notifiable military activities (involving between 13 000 and 40 000 troops or 300 and 900 battle tanks) can be carried out within one calendar year

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[32]   Vienna Document 1999: Section I.
[33]   Lachowski, *op.cit*. p. 47.
[34]   Vienna Document 1999: Section II.
[35]   *Ibid*: Section VII.
[36]   *Ibid*: Section V.
[37]   *Ibid*: Section IV.
[38]   *Ibid*: Section III. The OSCE also adopted a text (on a purely voluntary basis) on "Stabilizing Measures for Localized Crisis Situations" (FSC/2/96 of 25 November 1993).

and that no more than three notifiable military activities (with 13 000 troops or 300 battle tanks) can be simultaneously deployed in the same calendar year.[39]

The four categories of CSBMs are subject to verification by means of on-site observations, inspections and evaluation visits.[40] They are applicable within 'the whole of Europe as well as the adjoining sea area and air space'.[41] While the 'whole of Europe' is normally understood as covering a zone spawning from the Atlantic to the Urals, the concept of 'adjoining sea area and air space' has always been (and still remains) controversial among the participating states.[42] Since 1994, the case of the contiguous areas of participating states which share frontiers with non-European non-participating states (especially the five Central Asian Republics) has also not been settled.[43] Information required by the Vienna Document (as well as the CFE and the Open Skies Treaties) are channeled through an 'OSCE Communications Network' linking the capitals of nearly all of the participating states.[44]

Table IV: Typology of the Vienna Document 1999's CSBMs

Type of CSBMs	Concrete CSBMs
Information-oriented CSBMs	1. Exchange of information on military forces, down to and including brigade/regiment or equivalent level. 2. Data relating to major weapons and equipment. 3. Information on plans for the deployment of major weapons and equipment systems. 4. Annual calendars of scheduled military activities. 5. Prior notification of military activities held with at least 9 000 battle troops, or

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[39] *Ibid*: Section VIII.

[40] *Ibid*: Section VI (observation) and Section IX (inspection and evaluation). It is to be noted that observation also belongs to the category "direct communication CSBMs".

[41] *Ibid*: Annex I. The application of the measures relating to defense planning is not restricted by the zone of application for CSBMs as set out in Annex I.

[42] Annex I stipulates that, as far as the adjoining sea area and air space is concerned, CSBMs measures "will be applicable to the military activities of all the participating States taking place there whenever these activities affect security in Europe as well as constitute a part of activities taking place within the whole of Europe as referred to above, which they will agree to notify" and that "necessary specifications" will be made through subsequent negotiations on CSBMs. Those "necessary specifications" never materialized.

[43] Annex V reflects the understanding that "the implementation aspects of CSBMs in the case of contiguous areas of participating States specified in the understanding of Annex I which share frontiers with non-European non-participating States may be discussed at future Annual Implementation Assessment Meetings".

[44] The still unconnected States are Azerbaijan, Kyrgyzstan and Turkmenistan – as well as Andorra, Holy see, Monaco and San Marino.

	250 battle tanks, or 500 ACVs, or 250 artillery pieces (if organized into a divisional structure or, at least, two brigades/regiments).
Communication-oriented CSBMs	1. Visit to regular peacetime air bases (at least one visit in a five year period). 2. Program of military contacts and co-operation. 3. Demonstration of new types of major weapon and equipment systems. 4. Observation of military activities held with at least 13 000 battle troops, or 250 battle tanks, or 500 ACVs, or 250 artillery pieces.
Constraining CSBMs	Time constraints on the planning and actual deployment of military activities.
Crisis management CSBMs (Risk reduction mechanisms)	1. Mechanism for consultation and cooperation as regards unusual military activities. 2. Cooperation as regards hazardous incidents of a military nature. 3. Voluntary hosting of visits to dispel concerns about military activities.

Global Exchange of Military Information. Entering into force on 1 January 1995, the GEMI regime is more comprehensive than that of the Vienna Document as it concerns both the required information and the geographical zone of its application.[45] It commits the OSCE participating states to provide annual data not only on holdings of conventional weapons and equipment of major importance, conventional armed forces personnel and command structure (as in the Vienna Document's Annual Exchange of Military Information), but also on *naval armaments*. In addition, the regime is applicable *across the whole OSCE area and worldwide*, which means that (contrary to the Vienna Document) it covers weapons, equipment and personnel of participating states in North America and Siberia, as well those stationed on the territory of any non-participating state. The information exchanged under the GEMI regime requires a higher threshold than that required by the Vienna Document regime: for land forces, numbers must be at division or equivalent level and at that of army level (or equivalent) for other forces. Another more striking difference between the two regimes is that GEMI cannot, according to § 1 of its own terms of reference, 'be subject to limitations, constraints or verification'. However, being part and parcel of the OSCE corpus of commitments, it can generate special demands for 'clarification' (§ 7.2) and, naturally, be evaluated in the sessions of the Annual Assessment Implementation Meeting.

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[45]   Text of the GEMI document : FSC/5/96 of 28 November 1994.

Security Sector Governance Instruments

Motivated by the dual purpose of updating the 1975 Helsinki Decalogue and encouraging the former communist states to establish democratic civil-military relations conducive to a culture of the rule of law, human rights and international humanitarian law in military establishments, the OSCE adopted, in 1994, a 'Code of Conduct on Politico-Military Aspects of Security'.[46] This instrument, which entered into force on 1 January 1995, is one of the most outstanding normative achievements of the OSCE. Besides confirming many of the OSCE's previous principles, norms or commitments, the Code offers a number of welcome innovations such as: a solidarity principle (§ 5); the maintenance of military capabilities commensurate with individual or collective security needs (§ 12); the renunciation of military domination in the OSCE area (§ 13); and the non-stationing of armed forces on the territory of another participating state without with freely negotiated agreement with the host state (§ 14). Additionally, there is an anti-terrorism provision (§ 6). However, its real added-value lies in Sections VII-VIII. Devoted to the democratic control of armed forces (DCAF), their provisions intrude into an area of state power hitherto considered a *sancta sanctorum*. The Code's DCAF regime, which has no counterpart in any other universal or regional security organization, rests upon on four major pillars:[47]

    - Primacy of democratic constitutional civilian power over military power. The Code commits the OSCE participating states to ensure that, at all times, their constitutionally-established authorities, vested with democratic legitimacy, provide for and maintain effective guidance to and control of their military, paramilitary and security forces (§ 21). Its fundamental prescription here is that the military establishment must be and remain 'politically neutral' (§ 23).

    - Subjection of armed forces to the norms and prescriptions of international humanitarian law. The Code emphasizes the obligation of participating states to respect the corpus of international humanitarian law, which must govern armed forces at the levels of command, manning, training and equipment in time of peace as in wartime (§§ 29, 34 and 35). It prescribes governments to promote knowledge of that corpus within the military establishment and the population (§§ 29 and 30). It also recalls that all military persons responsible for serious violations, whether commanders or subordinates, must be held accountable for their actions under national and international law (§§ 30 and 31).

    - Respect of the human rights and fundamental freedoms of the armed forces personnel. The Code considers that human rights do not have to stop at the barracks, which means that servicemen are citizens and, as such, entitled to the benefit of civil rights (§ 23). Therefore, it prescribes that each OSCE participating state ensures that its military, paramilitary and security forces personnel are able to enjoy and exercise their human rights and fundamental freedoms in conformity with international law and

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[46]   The Code of Conduct constitutes Chapter IV of the "Budapest Decisions 1994".

[47]   For more details see Victor-Yves Ghebali and Alexander Lambert, *The OSCE Code of Conduct on Politico-Military Aspects of Security. Anatomy and Implementation*, Leiden/Boston, Martinus Nijhoff, 2005 xxi-428 p.

OSCE commitments (§ 32), in particular that the recruitment or call-up of servicemen is consistent with the obligations and commitments on human rights and fundamental freedoms (§ 27). The OSCE participating states are also committed to reflect in their laws or other relevant documents the rights and duties of armed forces personnel (§ 28), as well as to provide appropriate legal and administrative procedure*s* to protect those rights (§ 33).

 - *Regulation of the use of armed forces for internal security purposes.* The Code establishes that the domestic use of armed forces must remain subject to the rule of law and that international law and international humanitarian law provisions must be observed in the course of such use of force, as in the case of inter-state armed conflicts. It spells out four conditions regulating the domestic use of force: a constitutionally lawful decision, respect of the rule of law during operational performance, commensurability with the needs for enforcement, and care to avoid excessive injury to civilians and their property (§ 36). Going a step further, it prohibits a domestic use of force aimed at restricting human and civil rights when peacefully and lawfully exercised or at depriving people of their individual or collective identity (§ 37).

 Similarly to the Vienna Document on CSBMs, the Code also prescribes transparency and publicity for defence and military expenditures with, however, an important additional element: it commits the OSCE participating states 'to exercise *restraint* in [their] military expenditures' (§ 22). At the same time, it engages them to 'ensure that [their] defence policy and doctrine are consistent with international law related to the use of armed forces, including in armed conflict, and the relevant commitments of this Code' (§ 35).

 By the end of 1995, some participating states spontaneously announced the adoption of measures concerning the translation of the Code into the national language and its introduction into military training programs. As this practice continued to develop, the need for a regular exchange of information grew. Finally, in July 1998, the FSC decided that the OSCE participating states would submit, every year, a report on their actual implementation of the Code in a standardized format – namely a questionnaire including ten 10 rubrics out of which 7 were related to the democratic control of armed forces. After the 9/11 terrorists attacks against the United States, the FSC states streamlined the questionnaire by downsizing it to 7 items and expanding Question No 1, concerning terrorism.[48] It is also worth mentioning that the Code's implementation is not only assessed (as all norms and commitments developed within the OSCE's politico-military dimension) in the sessions of the Annual Assessment Implementation Meeting, but also in short follow-up conferences convened on *ad hoc* basis.[49]

 The contribution of the OSCE to the broader issue of security sector governance is not limited to norms on DCAF. It also includes operational activities and related-best practices concerning police training and border management. The OSCE

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[48] FSC.DEC/16/02 of 27 November 2002.

[49] So far, three follow-up conferences have taken place in Vienna in 1997, 1999 and 2002 (respective "Consolidated Summary": FSC.GAL/15/97 of 30 September 1997, FSC.GAL/82/99 of 9 July 199 and FSC.GAL/122/02 of 8 October 2002).

has increasingly been involved in both matters, especially after the restructuring of its program of activities decided in response to the 9/11 terrorists attacks.[50]

Police training. In 1998, the OSCE agreed to take over the monitoring of police activities in the Danube area of Croatia, the area of Eastern Croatia hitherto administered by UNTAES (United Nations Temporary Administration in Eastern Slavonia).[51] The participating states soon realized the importance of monitoring local police activities in the framework of conflict management, in particular at the stage of post-conflict rehabilitation.[52] In 1999, through § 44 of the Istanbul Charter, they decided to involve the OSCE in civilian police monitoring, police training (including for anti-trafficking purposes), community policing, and the formation of multiethnic police. They also acknowledged that the development of democratic and professional police forces could not take place in the absence of political and legal frameworks, within which the police could perform their tasks in accordance with democratic principles and the rule of law. Required were independent judicial systems able to provide remedies for human rights violations as well as advice and assistance for prison system reforms (§ 45). In December 2001, as part of the strategy to counter new security threats, the Bucharest Ministerial Council Meeting decided to strengthen the capacities of the OSCE to provide on request technical assistance on police matters to its participating states. It also recommended the holding of regular meetings of police experts from national agencies and specialized universal and regional organizations. Finally, it tasked the Permanent Council to review annually OSCE police-related activities on the basis of a special report to be annually submitted by the Secretary General.[53]

By the end of 2002, the OSCE Secretariat was endowed with a *Strategic Police Matters Unit* (SPMU) . The Unit now composes eight international staff members (including a Senior Police Adviser as head) who respond to frequent requests from participating states for assessing policing needs and planning. Their activities draw on the expertise of the Council of Europe, relevant NGOs and, wherever possible, international police Academies. The SPMU experts are active in several OSCE field missions. This is especially the case as regards the four Long-Term Missions operating in South Eastern Europe. The SPMU is also involved in the Caucasus and Central Asia. The Unit envisages establishing a database relating to policing issues, initiatives, techniques, operations, assistance programs, funding opportunities, lessons learned and good practices.

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[50] The strategy developed by the OSCE to combat new security threats aimed at four major goals: the elimination of the financing of terrorism, the fight against all kinds of illicit trafficking (THB, drugs, SALW, etc.), improvement of police forces performance, and more effective border management.

[51] PC.DEC/239 of 25 June 1998.

[52] On policing, see the special issue devoted to the matter by *International Peacekeeping* (Volume 6, No 4, Winter 1999).

[53] MC(9).DEC/9 of 4 December 2001. *Annual Reports on Police Matters* : SEC.DOC/2/02/Rev.2 of 12 December 2002 and SEC.DOC/2/04/Rev.1 of 11 June 2004. The first annual meeting of police experts took place in Vienna, in 2003.

Table V: Policing Activities of the OSCE[54]

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Caucasus

Armenia: Creation of a modern police emergency-response system in Yerevan; implementation of a community policing model in one of the districts of Yerevan; provision of support to the training center for new police recruits through investment in modern teaching aids, computer equipment, Internet access and study visits by the instructors to leading police training establishments in several countries.
Azerbaijan: Joint formulation with the Ministry of the Interior of an assistance program for the training of police recruits; implementation of a community policing model; enhancement of the drug investigation capacity through analytical support.
Georgia: Preparation of a concept of operations and timetable for a comprehensive Ministry of the Interior reform plan.

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Central Asia

Kazakhstan: Thematic technical assessment of criminal intelligence analysis.
Kyrgyzstan: Assistance program for improving quality of police investigations and police capacity for drug prohibition; setting up an efficient police emergency call-response centre; establishing a national criminal information analysis system; providing a radio-communication system for police crime investigators; improving the police's capacity to manage public conflict and disorder; introduction of community policing methods at a pilot site and expanding the curriculum of the National Police Academy.
Tajikistan: Border police assessment envisaged but postponed following the launching of the European Commission's Border Management for Central Asia (BOMCA) program.
Uzbekistan: Training in internationally accepted investigation techniques and related criminal procedures and legislation; strengthening of the Police Academy in Tashkent (development of a Chair of Human Rights Studies).

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South Eastern Europe

Macedonia: Recruitment and training of new police cadets selected from the ethnic Albanian minority; assistance to the police in the former crisis regions to exercise executive authority.
Croatia: Assistance to the Ministry of the Interior on recruitment and selection methods, options for restructuring, cross-border co-operation, witness-protection, management of ethnic incidents and hate crime, co-ordination of donor programs and community policing.
Kosovo (within UNMIK): Renovation and re-equipment of the Kosovo Police Service School; introduction of international professional police standards, human rights and modern techniques to cope with domestic violence, human trafficking and community policing.
Serbia and Montenegro: Promoting the development of a professional police service and improving its accountability and effectiveness; coordination of international assistance to police reform in Serbia; creation of a multi-ethnic police element in the municipalities of Presovo, Medvedja and Bujanovac (Southern Serbia).

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54   Source : SEC.DOC/2/04/Rev.1 of 11 June 2004.

Border management. Since 1998, the OSCE has been engaged, through its Office for Democratic Institutions and Human Rights (ODIHR), in a number of projects involving assistance to border services of the countries of Southern Caucasus and Central Asia.[55] It also conducted border monitoring operations in the framework of its conflict management activities in Macedonia, Albania and Georgia. The issue received new impetus after the 9/11 terrorists attacks. At the Maastricht Ministerial Council Meeting of 2003, the participating states adopted a 'Strategy to Address Threats to Security and Stability in the 21st Century' in which they stressed the need to address challenges arising from the interconnection between terrorism and organized crime through, *inter alia*, the elaboration of an 'OSCE Border Security and Management Concept' (§ 35). In 2004, gathered in Sofia, the Ministers decided that the Concept should be framed on the basis of several guidelines, some of which directly related to security sector governance, such as: to enhance border management and security without hampering licit free movement (of persons, goods, services and investments); to prevent and repress terrorism, organized crime, illegal migration, corruption, smuggling and illicit trafficking; as well as to promote co-operation between national border services.[56] The Concept is expected to be completed by the end of 2005.[57] In the meanwhile, a small team of experts was established in 2003 within the Conflict Prevention Center to serve as a focal point for all related matters, including (upon request) to conduct assessment trips to mission areas. The experts familiarize border officials of countries where the security sector is poor or dysfunctional (Caucasus, Central Asia, Eastern and South Eastern Europe) with the best practices of border management, based on human rights standards (awareness-raising on rights of migrants) and cross-border cooperation (negotiation of readmission agreements, development of tools for accurate data collection on and sharing of migration flows, etcetera). They also assist in the reform of the training system of border services, including for professionalization and demilitarization purposes. The OSCE has also launched, as a follow-up to the Ohrid Way Forward Document of May 2003, a Cross-border Cooperation Program to address the most urgent needs of South Eastern Europe at regional and sub-regional levels (OSCCP).[58]

Compliance Record and Implementation Trends

In the OSCE area, the participating states are bound to share, on an annual basis, an impressive variety and quantity of politico-military information according to strict

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[55] ODIHR.GAL/31/0430 April 2004. On the general issue of border guards, see Alice Hills, "Consolidating Democracy. Professionalism, Democratic Principles and Border Services", DCAF Working Paper No. 27, Geneva, July 2002. Available at: http://www.dcaf.ch/_docs/WP27.pdf; Alice Hills, "Border Control Services and Security Sector Reform", DCAF Working Paper No. 37, Geneva, July 2002. Available at: http://www.dcaf.ch/_docs/WP37.pdf

[56] MC.DEC/2/04 of 7 December 2004.

[57] On the present state of the negotiation see PC.DEL/474/05/Rev.1 of 20 July 2005.

[58] First results of the OSCCP Program : SEC.GAL/228/04/Rev.1 of 28 October 2001.

deadlines. Leaving aside special cases of blatant violation, current implementation problems are threefold : delayed reporting (failure to meet the required deadline), incomplete reporting (partial or inaccurate data) and persistent non-reporting for one or more calendar year. The main reasons are often due to administrative incapacities or bureaucratic hurdles. In order to cope with those procedural problems, the FSC established in 1998 an 'Announcing and Reminding Mechanism' consisting of two elements. First, two months before a relevant deadline, the Conflict Prevention Center is tasked to inform all participating states of their commitments, as well as the availability of technical or administrative assistance to help them comply in time. Second, the concerned state is expected to spontaneously provide the FSC, not later than two weeks after the missed deadline, with a written explanation (circulated to all other participating states) for the delay and the date when the commitment will be respected. In the absence of such explanation, the Chairperson of the FSC will send a reminder letter (also distributed at multilateral level) to the defaulting state.[59] In 2001, the mechanism was revised through the adjunction of an additional step; if the letter of explanation is still forthcoming four weeks after the reminder, the Chairperson of the FSC will make direct contact with the delinquent state in order to determine the reason for continued silence, the obstacles to compliance and/or implementation problems and possible needs for assistance and solutions.[60]

Table VI: List of deadlines for annual reporting and exchange of information[61]

15 April	Exchange of information on the Code of Conduct (FSC.DEC/4/98 of 8 July 1998).
30 April	Global Exchange of Military Information (FSC.Journal 94 of 3 December 1994, FSC.DEC/7/95 of 8 March 1995 and FSC.DEC/22/95 of 15 December 1995).
31 May	Questionnaire on landmines (FSC.DEC/7/04 of 24 November 2004). The previous FSC.DEC/14/97/Corr. Of 3 December 1997 was abolished.
30 June	Questionnaire on policies, practices or national procedures concerning

[59]   FSC.DEC/10/98 of 25 November 1998.
[60]   FSC.DEC/10/02 of 10 July 2002. As part of the OSCE Secretariat, the Conflict Prevention Center is tasked with several functions, which include serving as a focal point for the implementation of CSBMs.
[61]   FSC.GAL/20/05 of 22 February 2005.

	conventional arm transfers (FSC.DEC/20/95 of 29 November 1995).
30 June	Exchange of information on conventional arms transfers in accordance with the United Nations Register on Conventional Weapons (FSC.DEC/13/97 of 16 July 1997and FSC.DEC/8/98 of 4 November 1998).
30 June	Exchange of information on SALW exports to, and imports from, other OSCE participating states during the previous calendar year (art. III.F.1 of the SALW Document).
30 June	Exchange of information on the category, sub-category and quantity of SALW identified as surplus and/or seized and destroyed on the territory of OSCE participating states during the previous calendar year (art. IV.E.1 of the SALW Document).
1 September	Questionnaire on the process of ratification of the 1993 Convention on chemical weapons (FSC.DEC/5/96 of 26 June 1996). *NB: In 2003, all OSCE participating States ratified the CWC.*
15 November	Annual calendars and constraining provisions concerning notifiable military activities (§§ 61-67 and 67-71 of the Vienna Document on CSBMs 1999).
15 November	Information on programs of military contacts and cooperation (§§ 36 and 37 of the Vienna Document on CSBMs 1999).
15 December	Annual exchange of military information on manpower, major weapon and equipment systems as well as plans for their deployment (§§ 9-14 of the Vienna Document on CSBMs 1999).
No later than three months after the adoption of the military budget of the next year	Exchange of information on defence planning and military budgets (§ 15 of the Vienna Document on CSBMs 1999).

Updates to be provided when necessary (initial exchange took place on 30 June 2001).	Exchange of information on national marking systems used in the manufacture and/or import on SALW (art. II. D.1 of the SALW Document).
Updates to be provided when necessary (initial exchange took place on 30 June 2001).	Exchange of information on national legislation and current practice in SALW export policy, procedures, documentation and brokering controls (art. III. F.2 of the SALW Document).
Updates to be provided when necessary (initial exchange took place on 30 June 2002).	Exchange of information on national stockpile management and security procedures (art. IV.E.2 of the SALW Document).
Updates to be provided when necessary (initial exchange took place on 30 June 2001).	Exchange of information on technique and procedures for the destruction of SALW (art. IV.E.3 of the SALW Document).

Compliance with the OSCE politico-military commitments is regularly examined and discussed in the framework of the Annual Implementation Assessment Meeting (AIAM), the body responsible for implementation matters since 1991. The AIAM performs two main tasks: the review of the implementation status of each distinct commitment (or set of commitments) and the suggestion of possible solutions for improving compliance,[62] the latter also representing a source of inspiration for the elaboration of new commitments by the FSC. Although of short duration (two days), the AIAM exercise is not insignificant. Because of the participation of high level experts from the capitals, it offers a rare meeting opportunity between the direct agents of implementation at home and the Vienna-based diplomats. In the course of what is an interactive debate, questions are raised and answers often provided in a generally non-confrontational atmosphere.[63] The objective is not to criticize, but to cooperatively seek responses and obtain clarification to identify, understand and possibly solve the problems related to non-compliance or deficient compliance. From the 'Quarterly Surveys' issued over the years by the Conflict Prevention Center on the data submitted by the participating states, a number of major trends can be identified:[64]

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[62] Survey of suggestions tabled by the AIAM since 1996 : REF.SEC.218/96 of 24 April 1996, REF.SEC/199/97 of 27 March 1997, FSC.AIAM/50/98 of 26 March 1998, FSC.AIAM/42/99 of 23 March 1999, FSC.AIAM/47/00 of 28 March 2000, FSC.AIAM/41/01/Rev.1 of 11 April 2001, FSC.AIAM/43/02 of 27 March 2002, FSC.AIAM/53/03/Rev.1/Corr.1 of 1 April 2003, FSC.AIAM/41/04 of 6 April 2004 and FSC.AIAM/53/05/Rev.1 of 20 April 2005.

[63] With some exceptions – namely traditional controversies opposing Turkey to Greece (fortification of the Aegean islands) as well as to Cyprus as regards the alleged "non-representativity" of the latter.

[64] Latest CPC's "Quarterly Survey" :FSC.GAL/73/05 of 5 July 2005.

Arms Control Regimes. In relation to the instruments about which the governments agreed to report on progress of ratification processes, the situation is, so to speak, unproblematic as regards chemical weapons. All the OSCE states ratified the 1993 Chemical Weapons Convention (CWC).[65] This is not the case for landmines, an area in which all three Caucasus states and most of the Central Asian states (as well as a handful of other countries including the Russian Federation and the United States) are still free of international obligations. In the fields of conventional arms transfers and SALW, the participating states choose to comply with the requirement of reporting – with the notable exception of the Central Asian Republics (other than Kazakhstan) and Bosnia and Herzegovina. However, some experts note that the issue of conformity of arms exports with respect for human rights in recipient states is rarely discussed during implementation assessments.[66] Similarly, the latter focus on the number of destroyed or confiscated SALW, on assistance programs to reduce SALW, and only rarely on the criteria that exports are supposed to meet.[67] Finally, it is interesting to note that the assistance mechanisms concerning surplus conventional ammunition have not remained inactive. So far, five participating states have made (swift) use of the assistance procedure : Ukraine, Belarus, the Russian Federation, Tajikistan and Kazakhstan.[68] In Tajikistan, the assessment mission there concluded that the considerable amount of existing SALW and conventional armaments (a legacy of the internecine conflict of 1992-1997) posed real risks for the population because of poor storage conditions and that the state's armed forces required serious training in order to effectively improve safety and security of stockpiles. Given that encouraging global record, the Sofia Ministerial Council Meeting tasked the FSC to submit a progress report on the further implementation of the Document to the 2005 Ministerial.[69]

Table VII: OSCE participating states still not bound by international conventions on Landmines

1996 amended Protocol II on Landmines, Booby-Traps and Other Devices to the 1980 Convention on Certain Conventional Weapons	1997 Ottawa Convention on the Prohibition of the Use, Stockpiling, Production and Transfer of Anti-Personnel Mines and on Their Destruction
Caucasus States : Armenia, Georgia, Azerbaijan	Caucasus States : Armenia, Georgia, Azerbaijan

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[65] The information is taken from the United Nations dedicated website http://disarmament2.un.org/TreatyStatus.ns) which offers more updated data than the OSCE's "Quarterly Surveys".

[66] See Vetschera, "The Future of the Politico-Military Dimension – From Arms Control to Force Control", *op. cit.* (forthcoming).

[67] Ibid.

[68] See FSC.DEL/536/03 of 17 December 2003, FSC.DEL/75/04 of 9 March 2004 (Belarus), FSC.DEL/192/04 and 193/04 of 19 May 2004 (Russian Federation) and FSC.DEL/346/04 21 July 2004 (Tajikistan).

[69] MC.DEC/5/04 of 7 December 2004.

Central Asian States : Kazakhstan, Kyrgyzstan and Uzbekistan	Central Asian States : Kazakhstan, Kyrgyzstan and Uzbekistan
Other States : Serbia and Montenegro, Iceland, Andorra, San Marino	Other States : Russian Federation, USA, Finland

CSBMs Regimes. In this field, only the 'Risk Reduction' mechanisms of the Vienna Document (*crisis management-CSBMs)* have remained practically unsolicited.[70] The procedures related to the other categories of CSBMs are currently made use of, and their implementation record can be considered, in global terms, correct and satisfactory.[71] *Communication-oriented CSBMs*, in particular military contacts and cooperation, are considered to significantly contribute to overcoming relics of the Cold War mentality within military establishments.[72] Coming to *information-oriented CSBMs*, it is interesting to note the scarcity of military activities held below the established thresholds in terms of troops or weaponry. However, the crucial data required under the annual exchange of military information is normally provided by all participating states, with the exceptions of, Turkmenistan and Bosnia and Herzegovina. Those states, together with the three Caucasus countries, are the main delinquents as regards data on defence planning. Finally, compliance with the GEMI regime is also globally correct, with, once again, a poor record from the Central Asian states (minus Kazakhstan) and Bosnia and Herzegovina.

  Code of Conduct Regime. Compared to the other OSCE instruments analyzed here, the Code of Conduct is the only one to have known outstanding violations. Unlawful stationing of foreign armed forces (Turkish in Cyprus, and Russian in Moldova and Georgia) persisted contrary to § 14 of the Code. Disproportionate and indiscriminate use of force was displayed in Croatia (1995) and Chechnya (especially since 1999) in clear contravention with § 36. Furthermore, the 1999 NATO's military intervention in Kosovo was denounced by Russia and Belarus as a violation of the several principles and prescriptions embedded in the Code.[73] By contrast, the requirement for an annual exchange of information on the Code of Conduct has generally been complied with.[74] Only Kyrgyzstan has never provided any report, while some other Central Asian states have omitted to submit reports for one or more years. In the particular case of the Republic of Bosnia and Herzegovina, *separate* information has been supplied by the Federation of Bosnia and Herzegovina and the Republika Srpska only since 2002 . A careful analysis of the responses given through the Questionnaire leads to the regrettable conclusion that the participating states tend to

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[70] The mechanism concerning unusual military activities was, however, triggered in the early phase of the Yugoslav crisis (1991-1992). For more details, see Lachowski, *op. cit.*, pp. 90-92.

[71] For more details, see Lachowski, *op. cit.*, pp. 46-84.

[72] Spiess, *op. cit.*, p. 75.

[73] On the impact of the Chechnya and Kosovo crises, see Lachowski, *op. cit.*, pp.92-96.

[74] For a detailed and critical analysis of implementation trends, see Victor-Yves Ghebali and Alexander Lambert, *The OSCE Code of Conduct on Politico-Military Aspects of Security. op. cit.*, Part II.

attribute more importance to the item of terrorism than to those related to the democratic control of armed forces.

Conclusion: Open Issues and the Need for Rationalization

In the OSCE Euro-Atlantic and Eurasian area, norms, commitments and practices related to the defence sector form a multiplicity of regimes which are both comprehensive and partial in terms of membership, as well as complementary and overlapping at the level of substance. Besides difficulties related to the growing financial and bureaucratic burden entailed by constant reporting and exchange of information, the real problem is rationalization through more unified or integrated approaches. From this perspective, three major issues are self-imposing: the enlargement of the CFE Treaty zone of application, the revision of the Vienna regime on CSBMs, and the possible adoption of an OSCE integrated concept for security sector governance.

       The Enlargement of the CFE Treaty Zone of Application. Routinely referred to by experts as the 'cornerstone' of European security, the CFE Treaty is a *partial* regime since it links only 30 out of the 55 OSCE participating states. The non-Parties are located in South Eastern Europe (the least stable European sub-region), the Baltic region (an area of security concern for Russia) and also include the five European countries with neutrality status or adhering to practical neutrality, namely: Austria, Finland, Sweden, Switzerland and Ireland. Furthermore, with the exception of Kazakhstan (a small proportion of which lies in the European Continent), all the former Soviet Central Asian Republics are non-party states.

Table VIII: OSCE Participating States Outside the CFE Treaty Regime

South Eastern Europe (6): Albania, Bosnia and Herzegovina, Croatia, Macedonia, Serbia and Montenegro, Slovenia.
Baltic states (3) : Estonia, Latvia, Lithuania.
European Neutral states or practicing neutrality (5): Austria, Finland, Sweden, Switzerland, Ireland.
Other European states (7): Andorra, Cyprus, Holy See, Liechtenstein, Malta, Monaco, San Marino.
Central Asia (4): Kyrgyzstan, Tajikistan, Turkmenistan, Uzbekistan.

In November 1999, a new version of the instrument ('Agreement on Adaptation of the CFE Treaty') was finalized and signed. Upon its entry into force, it will be open on a case-by-case basis to non-parties whose land territory lies in Europe within the geographic area between the Atlantic Ocean and the Ural Mountains. In the present circumstances, the expansion of the CFE regime to all OSCE participating States is

highly unlikely to occur. Small states whose defence systems rely essentially on non-active armed forces and important defensive infrastructures and depots (Austria, Finland, Sweden and Switzerland) consider that accession would be counterproductive on two counts. First, given the delay normally required by any reactivation process, the fixation of rigid national ceilings for the categories of weapons limited under the CFE Treaty would constrain the capacity of reaction of their defensive armed forces in time of crisis. Second, the intrusiveness of the verification procedures provided for by the CFE regime would actually entail disclosure of the essential elements of their decentralized defensive systems.

The Adapted CFE Treaty has not yet come into force. This is deplored by Russia which expects from its actual implementation some clear benefits, namely the limitation and control of the destabilizing effects of present and forthcoming NATO enlargement, in particular the introduction of legal constraints on NATO's Baltic flanks.[75] So far (fall 2005), the Adapted instrument has been ratified only by Russia, Ukraine, Kazakhstan and Belarus. The Western Parties abstain to follow suit on the basis of a collective decision, taken at the Florence North Atlantic Council Meeting of 24 May 2000, which linked ratification to Russia's compliance with the new CFE flank limits (Adapted CFE) and to implementation of the politically binding Istanbul commitments on the reduction and withdrawal of Russian armed forces from Moldova and Georgia.[76] Whereas Moscow brought its Treaty-Limited Equipment in the North Caucasus in line with the Treaty flanks limits, it has not complied with all of its Istanbul commitments.[77] The clear majority of CFE Parties consider full implementation of the latter as a prerequisite for moving forward with the ratification. However, Russia rejects such a linkage. It argues that the Russian-Georgian and Russian-Moldovan agreements reached at Istanbul are of a bilateral nature and do not imply any legal obligations with regard to third countries. It labels the linkage 'illegitimate', and considers that delaying ratification on such 'groundless pretexts' do not serve European security.[78] The consequence of the deadlock is that, as pointed by Hans-Joachim Schmidt, 'the old CFE Treaty is still in force, despite the fact that the adapted CFE Treaty was signed in November 1999 and, meanwhile, some of its new national ceilings seem respected by all States Parties'. This regrettably means 'a hybrid situation with an outdated treaty that is still in force and the application of certain elements of the new treaty has started without its enactment'.[79] All logical options

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[75]   For more details, see Hans-Joachim Schmidt, "The Uncertain Future of CFE Between Istanbul Commitments and NATO-Enlargement", *The Politico-Military Dimension of the OSCE : Arms Control and Conflict Management Issues*, Victor-Yves Ghebali and Daniel Warner (eds.), Geneva, HEI/PSIO, 2005, pp. 155-156.

[76]   See § 51 of M-NAC-1 (2000) 052 of 24 May 2000 (Final Communiqué of the Florence Ministerial Meeting of the North Atlantic Council). The decision was initiated by the United States under pressure from Senator Jesse Helms. See Schmidt, *op. cit*., p. 154.

[77]   Russian compliance with the flanks limits was acknowledged by NATO in § 15 of the Prague Summit Declaration of 21 November 2002.

[78]   See for instance the Russian statement at the OSCE Sofia Ministerial Council Meeting : MC(12).JOUR/2 Annex 9 of 7 December 2004.

[79]   Schmidt, *op. cit*., p. 153.

envisaged to overcome the deadlock are, as recognized by their own proponents, politically unsuitable.[80] Whether the next CFE Review Conference, scheduled for May 2006, will be able to find a creative way out remains to be seen.

The Revision of the Vienna CSBMs Regime. Whatever its proven merits, the Vienna regime obviously needs some updating. On the one hand, the menu of possible CSBMs applicable in a period of political 'good weather' seems to have been exhausted. The need for CSBMs applicable in political 'bad weather' conditions – in time of crisis – is regularly raised. Although fashionable from a general and abstract perspective, it has so far demonstrated no potential for operationalization. Furthermore, as previously mentioned, those CSBMs specifically designed for emergency 'risk reduction' have remained practically unused. On the other hand, quite a number of new security challenges (intra-state destabilization, terrorism, transnational organized crime, OSCE out-of-area security threats, etcetera) are not addressed by the Vienna regime. At the present juncture, no consensus exists on the initiation of a revision process, either for updating or even *fine tuning* with comparable instruments, in particular, the CFE and Open Skies Treaties.[81]

Indeed, when the FSC was created in 1992, its 'Program for Immediate Action' included an item on the 'harmonization' of the obligations of participating states under existing international instruments applicable to conventional arms control, disarmament and CSBMs in Europe, in particular of those concerning the exchange of information, verification and force levels.[82] This implied the elaboration of common global regime incorporating the fundamental provisions of the Vienna Document, the Open Skies Treaty and (as a yardstick because of its highest standards) the CFE Treaty. Apart from genuine technical reasons (the difficulty of rationalizing sets of legally and politically binding regimes with different membership and various zones of geographical application), 'harmonization' soon proved to be mission impossible because of objections raised by small countries fearing (as mentioned above) the weakened effectiveness of their defensive systems based on non-active forces through intrusive verification procedures.[83] However, the December 1996 'Framework for Arms Control' (a document updating FSC's 'Program for Immediate Action') revamped the concept of 'harmonization' by means of provisions recommending the FSC to create, under the rationale of indivisibility of security, 'a web of interlocking and mutually reinforcing arms control legally and politically binding obligations and commitments' irrespective of whether or not all participating states are a party or

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[80]   *Ibid.,* pp. 166-172.

[81]   The 1992 Open Skies Treaty was elaborated in order to support the verification regime of the CFE Treaty and OSCE-related arms control and CSBMs instruments. For more details, see Ernst Britting, "The Concept of the Open Skies Treaty and its Potential for the Support of Verification Regimes", *The Politico-Military Dimension of the OSCE : Arms Control and Conflict Management Issues*. Victor-Yves Ghebali and Daniel Warner (eds.), Geneva, HEI/PSIO, 2005, pp. 189-229.

[82]   Helsinki Decisions 1992 : § 12 of Chapter V and item 1 of the "Program for Immediate Action".

[83]   For more details on the issue of harmonization, see Lachowski, *op. cit*., pp. 35-38.

signatory to the related instruments.[84] In addition to the CFE and Open Skies Treaties, the Framework considered that a number of additional elements had to be included in the web, *inter alia* the 1992 Concluding Act of the Negotiation on Personnel Strength of Conventional Armed Forces in Europe (CFE-1A) and, as concerns the OSCE, the Principles on conventional arms transfers, the Principles on non-proliferation, the GEMI regime and the Code of Conduct. The concept of a web of arms control instruments was conceived in much more flexible and pragmatic terms than 'harmonization'. Indeed, it entailed 'exploring ways participating states may develop, through negotiations freely entered into and on the basis of equality of rights, new arrangements to support co-operative approaches and to address security concerns and needs identified in the Framework for Arms Control', it being understood that 'such arrangements, which may vary in their substance and geographical scope, being OSCE-wide, regional or bilateral, will be an integral part of the web and will be consistent with each other as well as with the goals and methods set out in the Framework for Arms Control'.[85] As with 'harmonization', the web project has not, so far, materialized.

   The rationale for an integrated OSCE concept for security sector governance. The Code of Conduct provides for a regime of democratic control limited to armed forces. In its final Report issued in June 2005 ('Common Purpose. Towards a More Effective OSCE'), the Panel of eminent persons mandated to reflect on strengthening the effectiveness of the OSCE relevantly recommended that the latter should give priority to the 'promotion of police training, border management, the rule of law and democratic control of armed forces'.[86] Since many OSCE activities are currently performed in each of those fields, a logical step would be the elaboration of an integrated OSCE concept for security sector governance. This would entail the formulation of general norms and guidelines into a consolidated text, whether an updated Code of Conduct or a separate document. The enterprise should, preferably, be undertaken in cooperation with the European Union and NATO in order to possibly arrive at some common rules. In this context, it is worth noting that the 1993 European Union Copenhagen Criteria for accession (framed prior to the OSCE Code of Conduct) fix a number of conditionalities, among which is the stability of institutions guaranteeing democracy, the rule of law, human rights and respect for and protection of national minorities. As for NATO, the Partnership for Peace's Framework Document (January 1994) commits the subscribing states to 'exchange information on the steps they have taken or are being taken to promote transparency in defence planning and budgeting and to ensure the democratic control of armed forces' (penultimate tick of § 6) without mentioning the Code which was, at the time, under negotiation.[87] In any

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[84] FSC.DEC/8/96 of 1 December 1996.

[85] Section III of the Decision on "Development of the agenda of the FSC" (FSC.DEC/9/96 of 1 December 1996).

[86] CIO.GAL/100/05 of 27 June 2005 : § 15 f.

[87] Explicit references to the Code appeared in subsequent NATO texts such as the Partnership for Peace's Work Program for 2000-2001 (item 6) and the 1999 "Membership Action Plan" (§§ c and d of Section III). For more details, see Maria Caparini, "Security Sector Reform and NATO and EU Enlargement", *Challenges of Security Sector Governance*, Hainer Hänggi and Theodor H. Winkler (eds.), Geneva, DCAF, 2003, pp, 55-84 and David Law,

case, a number of refinements could possibly be directly introduced to the Code's DCAF regime, such as:

a) *The establishment of a better interconnection between the Code and the Vienna Document on CSBMs.* Although some of the Code's provisions are related to defence expenditures (§ 22) and defence policies and doctrines (§ 35), there is no conceptual or operational linkage between the Code and the Vienna regime section on defence planning. Transparent information on the defence planning process, especially when comparable over the years and provided it is correctly transmitted, represents a useful indicator of the effectiveness of the democratic control of armed forces. *Vice versa*, the CSBMs verification procedures could be used to assess the degree of implementation of the Code. Thus, the inspection and evaluation reports could give an account of that implementation. The briefings held during inspections and evaluations could include an obligation to report on the implementation of the Code in the inspected facility. Finally, the inspected or evaluated state could be committed to present the training program of conscripts, which would reveal the practical impact of the Code.

b) *The widening of the scope of information exchange required under the Code.* In this vein, information could be provided on the category of paramilitary forces and more precisely on the degree of integration of those forces into the system of parliamentary control. Information about the size, organization, role, objectives and activities of armed forces involved in internal security missions could also be relevant.

c) *The framing of some guidelines on the use of private security companies* would similarly represent an appreciable breakthrough.

d) *The involvement of the judiciary in security sector governance.* While the Code prescribes democratic control of armed forces at executive and legislative level, it does not explicitly provide for control by the judiciary. This gap could be filled by means of provisions drawing on the 1990 Copenhagen and the 1991 Moscow Documents' stipulations concerning the role of the judiciary in the broader framework of the rule of law.

e) *The specification (on the basis of the best existing national practices) of the basic rights and duties of armed forces personnel.* In that framework, the Code could include a new provision recommending the establishment, within participating states and outside the military chain of command, of an impartial institution tasked to address complaints about the military's actions and procedures, in other words a Military Ombudsman.

Beyond the negative trends illustrated by the non-ratification of the Adapted CFE Treaty, the non-updating of the Vienna Document on CSBMs and the failure of all attempts towards rationalization of parallel regimes, what really matters is that the most fundamental instruments developed in the OSCE area (CFE, Open Skies, Vienna Document) have undoubtedly established, through increased levels of openness and

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"Security Sector Reform in the Euro-Atlantic Security Region: Unfinished Business", *Reform and Reconstruction of the Security Sector*, Alan Bryden and Hainer Hänggi (eds.), Geneva, DCAF, 2004, pp. 21-43. Available at:
http://www.dcaf.ch/_docs/bm_ssr_yearbook2004_2.pdf

transparency, 'a regional zone of peace marked by a new culture of mutual cooperative military restraints in Europe'.[88] Despite dramatic change in the politico-military landscape, the OSCE regimes maintain their relevance. In case of non-compliance, they provide early warning signals or trip wires against a possible re-emergence of military tensions.[89]

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[88] Schmidt, *op. cit.*, p. 157.
[89] Heinz Vetschera, "The Future of the Politico-Military Dimension – From Arms Control to Force Control", *op. cit.* (forthcoming).

Chapter 8

Principles and Practices in Personnel Policies: The Case of the Hungarian Defence Forces

Dr. Ferenc Molnar

Introduction

The personnel-related changes of the Hungarian armed forces were logical consequences of *the democratisation process* on the one hand*, and *the new security environment* in Central and Eastern Europe, and so in Hungary, on the other. The democratisation required the application of the rule of law in (among others) human resources-related issues, the education of the personnel for democratic norms, and changing attitudes towards the society. The changing security environment initiated the building of new national defence policies, strategies, and structures. In the first case, the social and political consensus brought a relatively quick success, the latter, however, was one of the hardest nuts to crack since both politicians and the society had to face many other, urgent and more severe challenges, such as economic difficulties and public security. Nevertheless, the process of democratic consolidation and foreign policy forced the formulation of suitable personnel policies, strategies, and practices in the Hungarian armed forces.

The democratisation process called for abolishing earlier political priorities in personnel policies, which were manifested in the *commissar* system and the communist party's involvement in the life of the organisation, especially in recruitment, education, and career building. Furthermore, it required a change in the mindset concerning personnel in order to handle service members as citizens, who have declared rights besides their obligations. Although the Hungarian military belonged to the less politicised (rather professionalized) armed forces in the Warsaw Pact by the end of the 1980's, democratisation was a real challenge to the Hungarian defence sector. The transition resulted in a democratic decision-making procedure as to the size of the military, the manning system, the ratio of different service categories, the budget, as well as the civil rights (including the defence forces' personnel) based on acts adopted by the democratically elected parliament.

Although the foundation of democratic procedures was laid at the very beginning of the transition,[1] the process of downsizing following the changes in the security environment, and serious budget constraints, as well as the necessity of the capabilities' improvement forced Hungary to work out more exact personnel policies and related working mechanisms. *Domestically,* the permanent downsizing of the military (through lawful procedures), the increasing ratio of volunteers (recruitment under well-defined conditions), and the desired Euro-Atlantic integration (gaining necessary skills) supported this process. Additionally, the more and more conscious activity of the servicemen as citizens, and their union-like organisations also forced the Ministry of Defence to formulate clearer and more transparent regulations regarding the personnel. *Internationally,* NATO requirements and other international obligations (UN, OSCE) forced it in the first line.

The human resources of the Hungarian military became a topical issue first during the process of depoliticisation of the organisation, later in the period of the preparation for NATO membership, and nowadays as a necessary part of the transition to the all-volunteer force and working on the full integration to NATO. These periods have brought significant changes equally in the legal, structural, and cultural aspects of the personnel related questions.

The aim of this paper is to highlight some of the key issues of these changes, which are crucial in establishing a more democratic and professional way of human resource management. The problems to be examined are the legal background, the policies and strategies, the defined rules of recruitment, career development, and the protection of soldiers' civil rights. This paper also describes the steps taken in the area of military education and training for further integration into NATO, and ensuring the application of international humanitarian law.

The Role of the Parliament: Values and Laws

In a democracy, the freely-elected parliament has the key role in defining the foundations of the defence forces, including personnel-related questions.[2] It defines constitutionally the authorities, which have the right to set the frame of defence forces working mechanisms, to approve the highest-level promotions, as well as the basic democratic values.

The Parliament decides on the size, the composition (ratio of generals, officers, contracted soldiers, conscripts, and civilians), and the high-command structure of the armed forces as well as the main goals of the medium- and long-term development of the armed forces, including personnel related questions. Additionally,

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[1] Ferenc Molnár, 'Civil Society and Democratic Civil Military Relations – the Case of Hungary', DCAF Working Paper No. 101 (2002): 66. Available at:
http://www.dcaf.ch/_docs/WP101.pdf

[2] Hans Born, Philipp Fluri and Anders Johnsson (eds.), *Parliamentary Oversight of the Security Sector: Principles, Mechanisms and Practices*, Handbook for Parliamentarians No. 5, (Geneva: IPU/DCAF, 2003): 181. Handbook available at:
http://www.dcaf.ch/oversight/proj_english.cfm?navsub1=12&navsub2=3&nav1=3

the parliament adopts acts, which define in a detailed way the legal status, and the rights and obligations of the professional and conscripted soldiers (in the Hungarian case, for example, the 1993 CX Defence Act,[3] and 2001 XCV Act on the Legal Status of the Professional and Contracted Solders[4]).

The above-specified acts fulfil different aims. Firstly, they emphasize the fact that servicemen are 'citizens in uniform' and an integral part of a democratic society[5]. Secondly, these acts define all necessary specifications and restrictions, which are important for their accomplishment. This is especially valid for the Act on Legal Status, which deals with guaranteeing the rule of law, the internal order, and the stability of the military organization. This Act does it in a fairly detailed way when it defines all the military status-related legal questions ranging from principles, through unions, incomes, social-policy, to retirement. Here are some important elements of the act:

II. Chapter: Service-related principles
- Limits of servicemen's legalized duties (avoiding power abuses, harassment, etc.)
- Prohibition of discrimination, etc.
III. Chapter: The rules of exercising fundamental rights
- Limitation of individual freedom, freedom of speech (Decision-makers should carefully consider the minimum level of limitation of rights necessary for proper functioning of the given service or task)
- Suffrage
- Religious freedom, etc.
IV. Chapter: Union-like organizations and safeguarding of interests
V. Chapter: Establishing service relations
- Rules of recruitment
- Probation period
- The system of applications for higher positions
- The so-called 'unattached' status, (a position, with a one-year maximum, for those who study or serve abroad, or have temporarily no position and/or participate in re-education courses. It is crucial in times of restructuring or downsizing of the armed forces), etc.

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[3]   http://www.complex.hu/kzldat/t9300110.htm/t9300110.htm
[4]   http://www.complex.hu/kzldat/t0100095.htm/t0100095.htm
[5]   See the German concept: http://www.bundestag.de/htdocs_e/orga/03organs/06armforce/armfor05_2.html

VII. Chapter: Ending the service relation
- Resignation
- Mutual agreement
- Demobilization and related payments
- Incompatibility (e.g. subordinated relatives)
- Property declaration, etc.
VIII. Chapter: The content of service relations
- The general rules of promotion
- Requirements concerning education, health, physical conditions
- The rules of evaluation of performance, etc.
IX. Chapter: Incomes
X. Chapter: Additional benefits
XI. Chapter: Prizes, acknowledgements
XII. Chapter: Responsibilities concerning discipline
- Rules of punishments
- Procedures in case of crimes, etc.
XIII. Chapter: Responsibility for damages
XIV. Chapter: Social insurance
- Retirement, early retirement
- Health insurance, etc.
XV. Chapter: Complaint, appeal, and legal dispute
- (Selection from the Act on the Legal Status of the Professional and Contracted Solders 2001. XCV)

In sum, during the process of democratisation, the Hungarian legislation defined the structures, rights and rules of the democratic oversight of the armed forces, as well as the internal order of the military. While the Constitution guarantees rights and fundamental freedoms of all citizens, the Defence Act, and the Act on Legal Status of Servicemen limits these rights for servicemen, though servicemen, in principle, have the same rights as other citizens, as they are 'citizens in uniform'. Additionally, laws also guarantee the foundations of professional personnel policy and management. To be more exact, the law defines the principle and basic rules, which stipulate that

servicemen are to be recruited and promoted on the basis of merit and quality, adhered to in practice.

Changing Personnel Policy and Management

The entire system of personnel policy and personnel management had to be transformed not just because of the democratisation process, but also due to the changing security, social, and economic environments. While the legislation lays down, from time to time, the overall quantitative (i.e., size, budget) and qualitative (i.e., composition, proportion of services and corps[6]) parameters of the military, the constitution and other laws guarantee the foundations of command and control structures, and the democratic rights and rules for the internal order of the military and its personnel policy, the proper organizational management depends largely on the Ministry of Defence and the General Staff.

The Human Policy component of the MoD was established at the end of the 1990's in order to handle new personnel challenges in a professional way. It was of key importance because of constraints inherent in the rapidly-changing security, social, economic environments; NATO membership; and the transition to the all-volunteer system.

The new security environment (with regional, sub-regional conflicts, and terrorism placed high on the security agenda), NATO membership[7], and a new socio-cultural[8] reality required smaller and more professional armed forces. Additionally, the constraints of the market-based economy called for cost effective solutions for defending the nation and national interests. Taking these into account, the military had to change its view of the requirements of personnel policy.

Earlier, the compulsory service and the life-long military vocation dominated the organisational philosophy and policy. In the mass armed forces system the fluctuation was intensive on the level of common soldiers and was slow in the NCO and officer corps. In practice, the career (vocational) soldiers provided their service, and loyalty, while they received life-long employment, income, other benefits, and pension. External factors such as rapid social and economic changes little affected their career and seniority was an important guiding element in this system. This policy has been radically changing in the Hungarian Home Defence Forces.

The applied new policy was dominated by the so-called 'up or out' idea: someone who is not able to step up in the hierarchy in a certain period of time should

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[6]   Samuel Huntington, *The Soldier and the State,* (Cambridge: Harvard University Press, 2000), p. 534.

[7]   NATO membership influenced the concept of national defence and, by this, personnel policy in several ways. For example, as an allied country it was necessary to develop personnel compatibility (common procedures, language, signs and signals, international staff work, etc.); after the Prague Summit building certain capabilities resulted in changes not just in the structure of the military but also education and training.

[8]   For example, society was less tolerant towards compulsory military service; women's rights resulted in opening the military as a career option for women.

leave the organisation. This is the dominant but not exclusive idea determining the new system. In a certain group of places, one can stay for a limited period of time, then should either move upwards (if he/she meets the requirements defined in advance) or should leave for the civilian sector as a retired or a reservist soldier. There is another (smaller) group of places (that require special knowledge, skills, and training), where one can stay until completing the general working age limit or until the end of his/her contract.

It is important to note that with the advancement of the volunteer system, the military becomes an actor on the labour market as one of the biggest employers while it recruits employees from the available labour pool, educates and trains them, and transitions most of them back into the civilian society, once again into the labour market. Accomplishing this challenging duty, the creation of a personnel strategy and a human management system became a cogent necessity at the end of the 1990's. This strategy is based on the principles of the National Security Strategy, and the Military Security Strategy, as well as on the existing conditions. The implementation of the strategy is ensured by laws, and by the regulating and commanding activity of the strategic and executive leadership. In this system, the MoD works out strategic documents and the General Staff has the responsibility for working out implementation.

The dynamics of issues influencing the military organization implies a consistent leadership. The strategic approach requires a continuous *evaluation, planning* and *implementation*. The first two deal with the analyses of the internal and external organizational environment and make appropriate policies, plans, and strategies, the latter with the management of ongoing issues. The *guiding principles* of this approach are:

- Harmonising changing tasks, conditions and human resources;
- Supporting professional development and capacity of the military personnel;
- Improving the 'humanization' of the leadership and working mechanisms of the military organization;
- Continuously redefining the organizational goals according to the changing environment and integrating the proper solutions into the military.

All of these require a human strategy built on three pillars:[9]

i.   The *human resource planning system*, which provides a linkage between the internal organizational and the external conditions, as well as decision-making. It makes diagnoses, works out solutions and integrates them into the personnel-related decision-making procedures. It is an integral part of the defence planning system in the Hungarian Ministry of Defence.

ii.   The *human resource management*, whose activity is based on the planning system and defines the necessary objectives and ways of the changes. It pays

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[9]   'The Human Strategy of the Hungarian Defence Forces', p. 5.

careful attention to the following: civil and personal rights; the adherence to organizational norms defending individuals; provision of a reintegration system into the civilian society; guaranteeing healthful working conditions; and providing opportunities for individual development. In this system, the MoD–GS works out the human resource demands of the military, the requirements towards applicants, the system of training, peace- and wartime career routes, and the ways of human conversion.

iii. The pillar of *human resource development* provides a system for basic education and training underlying the entire military service, supports individual ambitions for vertical and horizontal mobility in the military, and ensures cohesion of military groups and an organizational culture.

Applying the above-mentioned concept and strategy, the Hungarian personnel management is definitely improving. The significant part of the legal, organizational, know-how developments have been put into practice or are in definitive progress. Nevertheless, difficulties and failures are also recognisable both in concepts and practice. Some of them relate to the previous long-lasting course of events dominated by a fiscal point of view and spontaneous downsizing, others are linked to mismanagement.

Mentioning some of them seems to be useful for drawing conclusions and lessons:

- Without clear concepts about the future of the armed forces, and, by this, of its personnel, many well-educated officers and NCOs left the military during the 1990's.[10]

- The conditions provided for soldiers by the military were far behind those offered by the market sector until 2001, so the rapidly growing economy drained personnel who had compatible knowledge and skills.

- During the late 1990's the recruitment system was developed, but the establishment of other parts of the system, which could have contributed to retain employees (cadets, young officers, NCOs, and privates) were postponed due to financial reasons. It resulted in a waste of material/financial and human resources.

- The budget-driven downsizing resulted in losses in services that could have provided recreation and coherence ('esprit de corps').

- As far as the most topical issue in Hungary, the transition to the all-volunteer system, is concerned, the armed forces are facing serious challenges. Although the decision was made and most of the founding documents and concepts are ready for the transformation, some elements seem to be more difficult to establish than it was earlier considered. Applicants want to see more clearly

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[10] The number of military personnel in 1990 was 143,000; today it is 37,000 with the goal for 2006 of 30,000, for 2010, 28,000 and for 2013, 26,500. Source: Úton a XXI. Század hadserege felé, 'Creating a New Military for the 21st Century', p. 34, Budapest: MoD, 2003.

improving working and living conditions, and the prospect of better opportunities in the labour market for their careers after their service. (Their evaluation will be crucial for the future, when the number of applicants will presumably decline.)

Providing Personnel

In order to be able to obtain the necessary personnel, an efficient recruitment system should be operated. When establishing such a system, it is important to take into consideration the democratic requirements (e.g., equal opportunity and transparency), the demographic, economic, and labour market conditions of the country, as well as the specified needs of the military organization. In Hungary, this system was formulated according to the requirements that were rapidly changing due to the transition from the compulsory military service to the all-volunteer force, and the changing ratio of service categories derived from the renewing structure of the military.[11]

A highlighted field of military recruitment is 'external' recruitment (from the labour market); however, support to 'internal' replacement (from the military organization), i.e., the selection of those fit for further service is also of great importance. The assigned tasks can be carried out by a professionally operated recruitment system backed up by an extensive marketing and advertising activity.

Strategic objective of military recruitment: meeting human resource needs of the armed forces from young age groups, in close cooperation with other actors of the Hungarian labour market.

Mission of recruitment: in order to meet the strategic goals of military recruitment, the system should be capable of providing personnel necessary for executing tasks stemming from the basic mission of the armed forces. It should also provide support to those leaving the armed forces in their re-integration in the labour market and provide assistance in obtaining the jobs they apply for.

Selection and training for military service constitute an organic part of recruitment, which include:

- A general personnel fitness assessment;
- Medical, psychological, and physical examinations; and
- Preparation for the first military assignment.

The declared, general *requirements* of selection, just like *conditions provided*, are *widely published and available*. Every citizen can reach the requirements at recruitment offices established in every county. The duties of recruitment offices are more than just recruitment (but also deal with defence administration, mobilisation, etc.) and are

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[11] Besides the transition to the all-volunteer system, Hungary had to take into account the changing human resource needs in accordance with its capability commitments made in Prague (NATO Prague Summit, 21-22 November 2002).

basically defined by the Defence Act.[12] Detailed information is also available on the Internet[13], in brochures of the Ministry of Defence, and from time to time as advertisement in newspapers.

Meeting the above described objectives requires comprehensive cooperation within and outside (with the public school system, colleges, universities, companies, agencies dealing with the unemployed, and institutes monitoring the labour market, demographic trends, education system, etc.) the Ministry for which it is necessary to conduct public relations activity in the administration to back up positive emotional attitudes, linked to the defence of the motherland.

Keeping and developing the personnel (career programs). A basic issue in modern human resource management is the efficient employment of the resources at hand. This can only be achieved through creating and running optimum working conditions so that the use of mental and physical power of the personnel can be ensured as long as possible. Retaining personnel is not possible until a balance between mutually provided values, material and non-material advantages is guaranteed in accordance with the agreement between the members of the personnel and the organisation, which is not just a mere economic contract but also a psychological agreement.[14]

An unavoidable precondition of shaping and maintaining a new type of personnel structure is to produce applicable career images on which the personnel can base its existence for a shorter or longer period of time. The basis for this is satisfying human needs which can be met by resolving professional tasks and promotion in ranks.

When shaping a career model for the Hungarian Defence Forces one has to take into consideration the economic opportunities, social traditions, norms affecting the civil sphere, and the typical features of the labour market. In concert with the government efforts when shaping the principles for the military career the civil servants' career traditions must also be taken into account. Another crucial part is the enlargement of the career model, shaping requirements and promotion planning so that they included not only public servants but also civil servants.

Making the various requirements well-known for both the employer and the military personnel and laid down in documents can be the only precondition for promotion in the military career. These include the necessary degree, military-professional training, and practice in a certain military assignment, high-quality service in the actual assignment, psychological, physical, and medical preconditions, and other optional conditions regulated by law.

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[12] The Hungarian Parliament passed a new Defence Act (2004 CV. Act) supporting the transition to the all-volunteer force. Major amendments of the law relate to citizens' defence obligations since the compulsory military service in peacetime has been abolished and some elements of the related defence administration have also changed.

[13] http://www.honvedelem/recruitment

[14] See detailed description of psychological contract in Dan L. Costley and Ralph Todd, *Human Relations in Organizations* (St. Paul: West Publishing Company, 1987), pp. 43-44.

General Principles of Promotion:

- Promotion is based on the hierarchy of assignments and military ranks structured in accordance with law. Promotion in ranks is realised through appointments into higher assignments.
- Promotion is based on a regular (annual) evaluation, on preparation for the next assignment, and on graduation from a certain school or course.
- One assignment level matches only one military rank and the promotion can be – in peacetime – only gradual, normally between a minimum and maximum waiting period of time related to the assignments.
- Career models for both commissioned and non-commissioned officers should be constructed with an option of serving abroad from the very beginning.
- Higher command positions should be accessible only through a sophisticated system of international, staff, and other professional assignments.
- Transfer from private to NCO ranks is a natural way of replacement while transfer from NCO ranks to the commissioned officers ranks should be only an exceptional case.
- Promotion of officers should be coupled with a territorial mobility while in the case of other ranks this request is connected only to warrant officers.

The promotion system should comprehend all the different features of branch and service promotion. For this reason it is reasonable to operate both a generic and a special promotion systems.[15] (The transfer between the two systems should be guaranteed.)

Evaluation System

The evaluation of the individuals' performance is obviously necessary and exists generally in two forms, a formal and an informal, in the armed forces' organisations. In the informal way of evaluation, superiors form an opinion about one of their subordinates and they will receive promotion or any other benefit in accordance with this evaluation. Consequently, the subjectivity in this evaluation is absolute. The formal

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[15] *Generic promotion system*: One particular assignment level (category) involves one rank which involves a certain minimum and maximum period of time. Before spending minimum waiting time or after maximum waiting time there is no chance for any promotion. Those servicemen, whose promotion was not possible, leave the forces in two possible ways. They can be put on reserve or if the serviceman meets the requirements outlined by law he can retire from service. *Special promotion system*: One particular assignment (category) involves several ranks and each rank involves a certain pre-determined waiting time. Before spending the waiting time there is no chance for any promotion. The rank identified for a particular assignment is set for the highest one achievable in a particular appointment. In the case of those taking such an assignment the service time can last until the termination of their contracts, or till the age limit. A special assignment involving higher military ranks, however, can only be taken up in accordance with the rules of generic promotion system.

way of evaluation is developed by the organisation, operated systematically according to written regulations and declared values. In a well-functioning organisation the results of the formal and informal evaluations should match each other.

A comprehensive evaluation system, which is a program for enhancing human efficiency, is an extremely important element of rational human resource management in the armed forces. In the Hungarian case it is defined by the Act on the Legal Status of Soldiers.

The operation of the evaluation system is determined by the human resource management philosophy of the Hungarian Defence Forces, by the human strategy ensuring the order of execution, and by the basic principles of a promotion system that constitutes an integral part of the previous structures.

Objective of evaluation: primarily to ensure the objectivity of the promotion, placement into higher positions, individual career development, to increase personal output, to shape working culture, to ensure information for identification of training requests, and for the correction of assignment request profiles.

Basic Principles of the Evaluation System:

- The evaluation covers the entire personnel of the Ministry of Defence and that of the Ministry of the Interior.
- The evaluation is regular and orderly, and is to be recorded in writing.
- The evaluation is to be carried out annually.
- The evaluation should be rational, objective, and cannot be general.

Requirements the Evaluation System must meet:

- The system should equally cater for the requirements of the Hungarian Defence Forces and individual expectations (maintaining and increasing outputs and achievement, shaping and enhancing individual roles).
- It should be future-oriented (although it is about past performance, its main goal is joint objective identification).
- It should contain objective information, based on regularly collected facts.
- It should be unified, transparent, and follow clear rationale.
- It should allow an order based on quality to be set up.

The evaluation system is the basis of promotion, as it provides an assessment of the quality of one's performance in general and in a certain position. This system, in accordance with the above-mentioned principles and requirements, combines the objective measurements and the superiors' subjective opinion. It consists of three elements:

1. *performance assessment* (in every year, in every grade) made by the commander;

2. *qualification* (when one served the required minimum time in a grade (1-6 years), or in lawful special cases; in case of non-commissioned officers, warrant officers, commissioned officers, and generals) made by head of the unit;
3. *assessment of leaders' activity* (every second year, only in certain chief positions) made by the superior.

In every case, the evaluated person has to sign and accept the evaluation or to make remarks to it. (In the third case, every leader as well makes an assessment about the activity of the person concerned.)

These evaluations are the general bases for planning assignments (including education and NATO positions) and promotions. In the case of new assignments and promotions a committee ranks the soldiers using the evaluations. Furthermore, it is at the foundation of the human resource management of the whole organisation since experts can access detailed information about 'places' and 'faces'.

It is important to note that the introduced evaluation system, the shrinking military organisation, and the increasing number of positions (primarily NATO) and missions abroad (UN, OSCE, NATO) initiated a certain competition among soldiers. Growing numbers of soldiers want to attend schools, special courses, and language training classes. It has also a positive effect in creating more transparent, economic human resource management, and better performance of individuals.

There are at least three important prerequisites of this system for its well functioning. The most crucial moral requirement is that this system shall be generally used for every member of the armed forces, *without any exceptions.* Those who have no such evaluation have no chance to get a new assignment or promotion. There is also a technical prerequisite for such a complex system, as it needs an improved integrated *information technological background.* It implies working out a new system of personnel-related procedures and training the administration. Consequently, members of the Hungarian personnel administration attend regularly special courses, conferences, and workshops in connection with the new human system and especially the evaluation system.

The minister orders these activities in his/her annual human policy directives in relations to the work of personnel management. The objective of these courses and events is to formulate a professional human management system, which is able to harmonise the organisational goals, interests and the existing personnel conditions *in a lawful way.* Consequently, these provide up-to-date information vis-à-vis organisational goals, structures, and requirements, as well as about the changing legal background of personnel management.

The minister is accountable for operating the armed forces, including its human resource management, according to the rule of law. Thus it is the minister's eminent interest to regulate the personnel management so that it fulfils its duty cautiously according to the laws. Citizens, serving in the armed forces, and their union-like organisations carefully follow how the military handles personnel-related questions. Nevertheless, it occurs from time to time that a court has to decide on debated questions.

Protection of Rights

One of the foundations of a democratic society is guaranteeing human and civil rights for every citizen, including the personnel of the armed forces; however, it is generally recognized that some of the rights need to be restricted for servicemen due to the special character of their job.[16] As it was discussed earlier in this chapter, the constitution and other laws lay down the rights and their possible restrictions concerning the personnel of the armed forces.

Service regulations and the training of superiors have to fit these declared norms. On the one hand, it is primarily military regulations and training that develop the routine that guarantees servicemen's rights. Nevertheless, regulations and superiors solely are not able to guarantee the rule of law. On the other hand, democratic education of the personnel improves the knowledge concerning the rights and obligations, and endows them with sensitivity and willingness to protect their rights.

One could say that this could cause difficulties in operating a capable military, but one has to consider democratic values and merely practical approaches too:

- the military is a part of the democratic society and it is under democratic control (this means safeguarding the society from the military in this respect), and includes servicemen's democratic mindset;[17]
- certain military missions, like Peace Support Operations, require servicemen who are concerned about human and civil rights, and legal regulations in general;
- providing participation is one of the tools of improving organisations' performance.[18]

In Hungary, the currently existing rights of servicemen, the structure and mechanism for protecting their rights are formulated in a long process, sometimes sparking heated debates.[19] Without going into details, this paper focuses on the main characteristics and activities of the soldiers' representative organisations.

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[16] See dilemmas around it and concerning conscription: Ilona Kiss, 'Rights of Conscripts in Peacetime: Obstacles to and Opportunities for Providing Judicial and Non-Judicial Solutions in East European and Central Asian Countries', Geneva (2001): 14. In Biljana Vankovska (ed.), *Legal Framing of the Democratic Control of Armed Forces and the Security Sector: Norms and Reality/ies*, (Belgrade: DCAF-CCMR, 2001): 209.

[17] Hans Born, Marina Caparini, Karl Haltiner, *Models of Democratic Control of the Armed Forces: a Multi-Country Study Comparing Good Practice of Democratic Control,* DCAF Working Paper 47, July 2002. www.dcaf.ch/publications/Working_Papers/47.pdf

[18] Robert Blake and Jane Srygley Mouton, *Productivity: The Human Side, A Social Dynamics Approach*, (New York: AMACOM, 1981): 4-7.

[19] Fapál László, 'Polgári és politikai jogok korlátozása a honvédség hivatásos állományánál' (Restriction of Career Soldiers' Civil and Political Rights in the Hungarian Defence Forces), *Acta Humana*, 28-29 (1997): 53-74.

Just like in many other European countries,[20] it is allowed to form representative associations and/or unions for the employees – including military personnel – of the Hungarian defence forces. Although international documents declare/recommend the rights of personnel of defence forces establishing representative associations[21], in case of Hungary it was rather a result of the domestic process of democratisation.

Organisations to safeguard the rights of soldiers and civilian employees[22] have been in place since 1991 as a result of the laws that made it possible and the need posed by the downsizing of the military. Since 1995, soldiers' interests have been represented by the 'Honvéd' Union.[23] It had a significant role in formulating the Act on the Legal Status of Soldiers, which defines the soldiers' right to create representative organisations or to be member in such organisations.

The 'Honvéd' Union declared its conviction about representation and put clearly: 'One has as much right as much one enforces!' The Union aims at:

- Providing a forum for conciliation and protecting soldiers' interests and rights.
- Participation in preliminary lawmaking and internal regulation-making procedures enhancing the application of civil rights.
- Cooperation with international and domestic representative organisations for enhancing its activity.
- Providing transparency and so publicity for soldiers.

The bottom line of its activity is that soldiers are 'citizens in uniform'. In their interpretation this means that civilians and soldiers have fundamentally the same rights; however, soldiers' civil rights could be restricted at least while carrying out military duties. Citizens in uniform fully accept military regulations, discipline and obedience, and their activity in their union is not against commanders or superiors. Nevertheless, the Union opposes the over-restriction of soldiers' rights in case these restrictions are not derived obviously from functions of the military. Additionally, the Union is convinced that soldiers have a right to be smoothly reconverted to the civil society.[24]

The Union sets a certain list of principles and tools for achieving its goals. The most important of these are to:

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[20] Hans Born, Philipp Fluri and Anders Johnsson (eds.), *Parliamentary Oversight of the Security Sector: Principles, Mechanisms and Practices*, Handbook for Parliamentarians No. 5, (Geneva: IPU/DCAF, 2003), 150-153. Available at:
http://www.dcaf.ch/oversight/proj_english.cfm?navsub1=12&navsub2=3&nav1=3

[21] European Convention on Human Rights and Fundamental Freedoms (Article 11.); Council of Europe Parliamentary Assembly (Recommendations 1572).

[22] Association of Comrades' Organisations (BEOSZ), Union of Civilian Employees (HODOSZ), League for Protecting Soldiers' Rights (KÉSZ), and 'Honvéd' Union.

[23] 'Honvéd' Union is embedded into the domestic and international civil society advocacy networks. It is a member of the Security Sector Workers' Association (FRDÉSZ) and the European Organisation of Military Associations (EUROMIL, http://www.euromil.org).

[24] http://www.hsz.hu

- Associate soldiers with a view for strong representation of their interest towards the state, political and public organisations, and on certain other forums.
- Initiate amendments or cancellation of laws or regulations which gratuitously offend or limit soldiers' rights.
- Initiate the collection and declaration of soldiers' rights and obligations and those adherences. If it is necessary, it brings to justice the debated questions.
- Request participation in decision-making procedures.
- Support the activity of the Ombudsman of Civil Rights.[25]
- Articulate soldiers' interests and fight for equal opportunity and against privileges.
- Create funds for supporting members of the armed forces.
- Spread up-to-date information concerning soldiers' rights.

The activity of representative organisations resulted in *regular consultations* between them and the Ministry of Defence and the highest command of the armed forces. The general legal basis of the consultation is laid down in the Labour Code, but currently the Act on the Legal Status of Soldiers provides a more specific description of the way of negotiations. Consequently, this Act sets the frame of soldiers' rights concerning representation in a quite detailed way and the activity of representative organisations such as:

- Soldiers have a right to establish organisations for protecting and representing their rights, interests or to be member in such.
- Representative organisations can be operated freely just like other similar organisations in the society, but are not allowed to organise strikes, not to hinder the armed forces in working properly and carrying out their ordered duties.
- A 'forum' for negotiating questions affecting the personnel has to convene with the participation of the minister, the chief of staff and the qualified representative organisations.

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[25] In many other countries there are special military ombudsmen exercising control over the defense sector, and by this, protecting soldiers' rights. See, http://www.dcaf.ch/publications/bg_military_ombusdsman.cfm?nav1=4&nav2=1
In Hungary, the Ombudsman of Civil Rights (www.obh.hu) screens the defense forces including the military from time to time. The ombudsman controls primarily the legal certainty; the dignity of the human being; equal opportunity and discrimination; liberty and individual security; right of labour, recreation, and leave; right of legal dispute and complaint; religious freedom, freedom of speech, right of representation. Certain organizations – among them unions – have a right to request the ombudsman's control. Every citizen also has the right to do so, when he/she has fully used all other legal options.

The Forum (HOVÉT, from 1998 HÉF) has convened several times to negotiate severe questions, even the terms of the employment. The major goals of the representative organizations concerning 'Forum 2002' were the following:

- providing permanent negotiations between the representative organisations, the minister, and the Chief of Staff.
- harmonising the interests inside the establishment of representation in order to utilise the opportunities provided by laws with a maximum effectiveness.
- sharing information among representative groups to help achieving agreements.

In sum, there are different dimensions and tools for protecting civil rights and freedoms of the members of the Armed Forces. Domestic laws ranging from the Constitution to the Act on the Legal Status of Soldiers, and military regulations fit to international agreements and recommendations in guaranteeing rights and freedoms. Soldiers and especially commanders are educated to be sensitive concerning these rights. Although these mechanisms and more generally the 'vertical' democratic control over the defence establishment ensure the rule of law in this respect, representative organisations are allowed to be organised and act for improving the protection of soldiers' rights and interests. In Hungary, the 'Honvéd' Union promotes democratic empowerment in this sense, and its activity resulted in increasingly precise declaration of rights and obligations of the 'citizens in uniform', as well as in a regular 'Forum' between the ministry, the General Staff, and the representatives of the soldiers. In case of unsolved, debated questions the courts or the Ombudsman of Civil Rights decide.

Education and Training for Enhancing NATO Integration

The Alliance and its members promoted various forms of education and training of Hungarian officers and civilian representatives of the MOD (and the MFA). These assistance programs focused on democratic civil-military relations[26] and NATO procedures, and were helpful in spreading NATO-compatible military practices. The education programs of NATO and member countries' institutions have contributed to the formation of a certain number of military officers who were able to serve in international staffs and to transfer their NATO-related knowledge. Hungary's preparation for NATO integration has definitely improved since the international education and Partnership for Peace (PfP) programs broadened training.[27]

The Hungarian Defence forces had made active and successful use of the opportunities for studying and orientation that PfP provided. It surely played a significant role in the fact that Hungary was included in the first wave of enlargement

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[26] Ferenc Molnár, 'NATO Influence on Democratisation of Civil-Military Relations in Hungary', *Euro Atlantic Integration and Ukraine* (2004): 19.

[27] The 'Partnership for Peace' program was launched by the NATO Summit of 10-11 January 1994, in Brussels.

and became a full-fledged member of the Alliance in 1999.[28] Nevertheless, the armed forces had to improve a lot until achieving full compatibility with NATO, that itself has changed a lot since the 1990's.

Hungary's NATO membership brought a unique opportunity for the transformation of the military. Having recognized this, the government ordered the strategic review of the whole defence sector in July 1999. Based on this strategic review, a government resolution announcing a comprehensive package of measures was adopted in the same year. The document provided the General Staff's integration into the Ministry of Defence, a reduction in the number of leadership levels, personnel reduction resulting from the armed forces' new structure, as well as the more economical operation of the military organization and the financing of the military.

Although the review carried out in 1999-2000 and the announced military reform tried to establish firm foundations for the modernization of the Hungarian forces, it was unable to get away from previous practices. But the biggest problem was that even this reform was unable to change the approach that considered the transformation of the Hungarian military from the point of financial constraints, rather than focusing on capabilities necessary for the tasks, and it adhered firmly and rigidly to a traditional territory-based defence in a period when national security policies increasingly shifted toward the principles of interests and values.

Another serious problem was that although giving priority to the improvement of living and working conditions was justified from the point of view of the existential and moral situation and motivation of soldiers, scheduling modernization in this order was disadvantageous in respect of the performance of allied obligations. In addition to the radically changed Hungarian security environment after 1999, it was due partly because of the above-mentioned problems that the new government entering office in 2002 ordered yet another review of the military in the summer of that year. Although this new review tried to take into consideration the findings of the former, it could build on them only to a small extent for three fundamental reasons.

First, breaking with the attitude and method of previous reviews, it approached the transformation of the armed forces from the aspect of capabilities necessary for performing the tasks devolving on the Hungarian military. The second reason was that Hungary's security environment fundamentally changed after 1999 (in October 2000 a democratic turn took place in Yugoslavia; on September 11, 2001 the United States was attacked by terrorists; and it became certain that the second round of NATO enlargement would include seven countries, three of which, Romania, Slovakia, and Slovenia, border Hungary), which made it all the more obvious that rigid adherence to the territorial principle of defence was a mistake. The third was the appearance of a new factor, namely, the capability commitments made in Prague, where Hungary committed itself to carry out improvements.[29]

In accordance with the results of the latest review, the government program, and Hungary's commitments to NATO, decisions were made concerning, among

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[28] Ferenc Végh, 'The Hungarian Defence Forces: From Preparation to Full Interoperability', *Hungary: a Member of NATO* (1999): 41-49.

[29] Zoltán Szenes, *Hungary's Five Years in NATO* (Budapest: Zrínyi, 2004): 81-93.

others, the transition to the all-volunteer force and further integration into NATO. The review also resulted in programs on, for instance, NATO integration and for improving professionalism serving the better performance primarily in out-of-area operations. It also affected many aspects of human resource management including education and training.

Recent developments in NATO integration. Although Hungary has adopted many of the NATO requirements, including its structure, working mechanisms on different levels, and personnel skills since the 1990's, further adaptation is necessary. The main objective of the integration program is achieving the interoperability at an average level of NATO member states by 2010. In practice this means that the Hungarian armed forces will be able to effectively co-operate with other members of the Alliance in various NATO operations.

The Integration Affirmation Program serves it by selecting four areas:

- defence and force planning;
- education;
- training;
- exercises.

The integration process – based on negotiations with NATO's AFSOUTH – will be executed in four phases: identification of required capabilities and relevant milestones; preparation of specific national and NATO plans; implementation of tasks defined by the integration program; and assessment, modification and redesign.

As far as the education is concerned, it has always been a highlighted part of the integration to NATO since 1997, when Hungary was invited to join the Alliance. Besides international courses mentioned earlier, various NATO orientation, preparatory, and language courses were introduced on different levels for officers, warrant officers, and NCOs domestically.[30] Nevertheless, at the early phases NATO-related education did not improve properly. Consequently decisions were made to:

- Establish a language training centre[31] for enhancing the level of language education and especially military language skills;
- Set up a committee of NATO doctrines controlling the application of doctrines to the syllabuses;
- Appoint senior instructors responsible for applying NATO standards (STANAG) in certain subjects;
- Ensure that military schools report on activities and level of NATO integration every third month.

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[30] József Holló, 'Humán intézményrendszer - kompabilitás' ('The Human Side of Compatibility'), *NATO/EU csatlakozás és a védelmi szektor* (*NATO/EU Integration and the Security Sector*) (1999): 75-82.

[31] http://www.zmka.hu/tanszekek/bknyk/

As a result, the Hungarian military education has evolved according to NATO standards since 2001. Nowadays, in order to provide the continuity of education and the flexibility of personnel the servicemen's gradual education has been complemented by additional specific and retraining courses.[32] These are traditional and, in an increasing number, distance-learning courses. All of these are carefully organized and managed according to NATO requirements.

As far as the training system in Hungary is concerned, it is currently undergoing a change since the all-volunteer force was established and tasks of the armed forces changed in accordance with the new security environment of the country. The soldiers have now much more training during their service period than before (other services such as cleaning and guard duty are not provided by volunteer soldiers) and training is to a greater extent focusing on NATO-led and other international operations, primarily peace support operations. In the new system preparation for peace support operations (PSO) starts as early as the basic training of every soldier since each of them has to be ready to serve in such missions at any time.

Although soldiers have NATO and other international PSO-related education and training, those who are assigned to be deployed have to participate in special courses. In order to provide such special education and training a PSO training centre was established in 2004.[33] Every soldier and unit preparing for NATO, UN, EU or other missions, has to participate in various courses in this centre.

Courses deal with specific issues of the given mission that depends on whether it is a NATO, UN, EU, or other one, or on the environment where it will take place. These courses carefully explain to soldiers international law (humanitarian and law of war). It is important to note that international law is an integrated part of every level of military education and training in Hungary.

International humanitarian law in education and training

The need for incorporating international law into military syllabuses and training plans increased rapidly after the Cold War. Although Hungarian soldiers had taken part in several peace support operations before 1990, the number of such missions increased rapidly since than.

An important feature of most of today's military missions is that soldiers use force when it is unavoidable. The forces taking part in a mission try to gain the support of local communities, the media, and the national and international non-governmental organizations. Furthermore, each military activity could have political relevance locally or internationally.

Consequently, a more and more systematic appearance of international law and international agreements is required in education and training. In accordance with the OSCE Code of Conduct, these documents and norm constitute an integrated part of the education and training programs of the Hungarian Armed Forces.

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[32] The new system was introduced by a common order of the MoD administrative state secretary and the Chief of Staff 17/2003 (HK.7).

[33] http://www.honvedelem.hu/honvedseg/szarazfold/mh_beketamogato_kikepzo_kozpont

All barracks and institutes of the armed forces have a library where a collection of updated laws containing the humanitarian laws is available according to an order of the chief of staff.

- The Hungarian books of regulations contain the most important elements of international law.[34] Military basic training contains theoretical lessons and practical training (field exercise) concerning international law.
- Further education and training for common soldiers, NCOs, WOs and commissioned officers contain a significant number of classes (30-52 hours), and training hours in relation to international agreements and international law.

Career soldiers' education generally touches upon the following main areas: the connection between international humanitarian law and human rights; the principles, and definitions of international humanitarian and military law; rights of prisoners of war; commanders' responsibility concerning international regulations, and subordinates' responsibility for committing war crimes.

Summary

Human resource-related challenges seem to be long lasting ones and difficult to respond due to financial reasons, lack of know-how and of political will. It resulted in a definite delay of working out up-to-date, professional structures, and working mechanisms in this field. Nevertheless, the time of revelation came in the late 1990's, that suitable personnel institutions, policies, and practices are crucial for developing an effective, economic, and reliable defence sector, including the military.

Hungary decided to improve the entire personnel system of the military by further *democratisation* and full *professionalization*. However, this process is bounded by the developments generally in the society and economy.

Summing up the Hungarian case, the parliament and other civilian authorities control the personnel policy and management of the armed forces, with laws, established democratic structures, and transparent procedures guaranteeing it. Documents of the Ministry of Defence and the General Staff carefully follow the principles and norms defined by laws and parliamentary decisions concerning the key features of the military. The human strategy of the military is based on the national security and military strategies. In Hungary, the transforming personnel management system definitely conforms to democratic, and increasingly to professional, requirements.

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[34] For example: the basic Book of Regulations (Chapter I, XII) collects and explains the soldiers' individual and commanders' responsibility regarding international law; all Hungarian books of battle regulations contain a chapter, which specifies the regulations of warfare by international law.

Selected Current Developments

Hungarian Home Defence Forces 2002	Hungarian Home Defence Forces 2006
Rather mass armed forces	Professional armed forces
Traditional military	Expeditionary military
Traditional composition	Module composition
Non field service oriented	Field service oriented
Partly performance-driven	Fully performance-driven
Relatively bad working conditions	Acceptable working conditions
Decentralized personnel management	Centralized personnel management
Using information technology for personnel management is in early phase	Information technology fully applied in personnel management
Specified knowledge and skills for the long-term	Wide range, flexible knowledge and skills (specialization at the end of the education)
The role of foreign languages is minor	Communication skills and foreign languages are important
The cost-effectiveness of the education is marginal	The cost- effectiveness of the education is central

The education and training of Hungary's military personnel increasingly adopts NATO requirements and enhances the capability of the forces according to the commitments Hungary made in Prague. Related structures and programs established by the Ministry of Defence and the General Staff aim to achieve full NATO compatibility of the armed forces and effective contributions to peace support operations. This includes an integrated education and training system in accordance with NATO doctrines, standards, and international laws and agreements.

Chapter 9

Financial Planning and Resource Allocation in the Defence Area

Dr. Hari Bucur-Marcu

Introduction

Financial planning and resource allocation in the area of defence are dual processes: while traditionally seen as the execution portion of the defence planning cycle, they retain the features of decision-making. The decisions made within resource allocation may maximise or render insignificant those taken on defence strategy or on force transformation. As execution processes, in modern societies at least, they also face an accountability dilemma: what is more significant to follow: accountability for finances and fairness or accountability for performance, that is the effective executive action?[1]

Defence expenditure plays an important role in the national economy and society, and it accounts for the military outcome of national security. Usually, defence occupies around 2% of the active population, accounts for more than 1% of the Gross Domestic Product (GDP), or over 4% of total government expenditures. The direct impact of defence spending on economic growth differs from nation to nation and depends on many factors, such as if the procurement is creating a demand on the national industry or if the defence industry is draining resources from other sectors, like health or education.[2]

The end of the Cold War led to a shift in the balance between the state, the market and civil society,[3] altering the environment in which governmental agencies, defence ministry included, are operating. The public, as well as international actors

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[1] See Robert D. Behn, *Rethinking Democratic Accountability*, Brookings Institution Press, Washington D.C., 2001, p. 7.

[2] For more discussion on the relationship between defence spending and economic growth see J. E. Payne and A. P. Sahu (eds.), *Defence Spending & Economic Growth*, Westview Press, Oxford, 1993.

[3] N. Caiden, "Public Service Professionalism in Performance Management and Evaluation", in *Public Service in Transition: Enhancing its Role, Professionalism, Ethical Values and Standards*, United Nations, 1999, available at URL http://unpan1.un.org/intradoc/groups/public/documents/un/unpan000385.pdf

with an expressed interest in a certain nation demand higher standards of ethics, transparency and accountability in the defence sector, and view the demand for good governance of the defence forces as part of the sustainable development process.

Issued by the 91st Plenary Meeting of the Special Committee of the CSCE Forum for Security Co-operation, in Budapest, in 1994, the Code of Conduct on Politico-Military Aspects of Security states in article 22 that 'each participating State will provide for its legislative approval of defence expenditures. Each participating State will, with due regard to national security requirements, exercise restraint in its military expenditures and provide for transparency and public access to information related to the armed forces'.[4]

One question that should be raised from the beginning is about what procedures may best fit to both good finance and good management in the defence area. One way a nation may answer this question is to 'borrow' the required know-how from another nation where innovative or even classical procedures have proven to be successful. Even if this seems to be a straightforward solution, in practice it may prove to be more complicated than expected.[5]

Another specific feature of the processes we are discussing here is that it is about a non-productive domain. In broad terms, that means that while we may measure the input (financial and human resources), the output is very difficult to measure. The defence output should be the military power, that is the capability to fight and win a war, but, most of the time, the war, if it is to be fought, will reveal the output only in the last instance, when nothing can be done to improve this process. With no prospects for a war in the near future, a nation may spend money on defence with less regard for actual fighting capabilities.[6]

Besides, there is no direct connection between defence spending and military power. Any marginal increase in defence spending may not directly lead to a marginal increase in fighting capabilities of a nation.

In most of the partner nations, and for a long period of time, defence budget was a secret and centralised affair, as the government budget often was. Hence, the need for reform is still present, as recognised by the NATO Istanbul Summit document on the Euro-Atlantic Partnership - Refocusing and Renewal.[7]

This chapter deals with procedures thought to render the financial planning and resource allocation more efficient and effective, as part of a more accountable and transparent process of defence policy and governance. In words becoming common

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4   OSCE *Code of Conduct on Politico-Military Aspects of Security,* Programme for Immediate Action Series, No. 7, 3 December 1994, available at URL http://www.osce.org/docs/english /pia/epia94-2.pdf

5   For a discussion on the difficulties of importing international experience, see C. Pollitt, "Public Management Reform: Reliable Knowledge and International Experience", *OECD Journal on Budgeting*, Vol. 3, No. 3, 2003.

6   For a discussion about assessing policies in public sector expenditure, see Ke-young Chu and others, *Unproductive Public Expenditure: A Pragmatic Approach to Policy Analysis*, IMF Pamphlet Series, No. 48, Washington: International Monetary Fund, 1995.

7   NATO, *The Euro-Atlantic Partnership - Refocusing and Renewal*, available at http://www. nato.int/docu/basictxt/b040623e.htm

language, it is about codes of conduct, best practices and good governance. The first section will address the framework in which the financial planning and resource allocation take place, the second will discuss the principles that should govern any accountable financial planning and resource allocation system, the third section will deal with the main steps to be taken in the processes of financial planning, and the last will address the resource allocation dilemma.

The Framework for Financial Planning and Resource Allocation in Defence

From the beginning it should be recognised that financial planning and resource allocation are part of the defence planning, which is not necessarily a straightforward concept, as nations around the Euro-Atlantic area rely on defence planning in different ways to lay down the foundation of their defence establishment. In a DCAF Working Paper, Daniel Nelson argues that even the concept itself evokes misconceptions and it should be replaced with the wider concept of security planning.[8] Even the OSCE document on defence planning avoids defining the concept, stating only that the area of interest in defence planning for the participating states is the 'state's intentions in the medium to long term as regards size, structure, training and equipment of its armed forces, as well as defence policy, doctrines and budgets related'.[9]

For general purposes, we may agree that defence planning is an organisational and institutional complexity comprising of three main areas: policy formulation, force planning and resource allocation. Its main goal is to generate the amount of military power a nation considers as sufficient to attain its national objectives.

If defence planning is the main framework for financial planning and resource allocation, the framework in which defence planning functions is the democratic political control of the military. Each OSCE participating state agreed through the Code of Conduct on Politico-Military Aspects of Security to 'provide for and maintain effective guidance to and control of its military (…) by constitutionally established authorities vested with democratic legitimacy'.[10]

If we are to discuss what ways might more substantially improve the performance of financial planning and resource allocation within the context of defence planning, we should initially address the organisations and the institutions involved in the process. While the concept of organisation is somehow self-explanatory, implying actors organised collectively for a common purpose, perceptions of the institution concept are not uniform across cultures. Some may even think that organisations and institutions are synonyms, while others may understand that they govern the organisational behaviour through laws, policies and cultures.[11]

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[8]   Daniel Nelson, "Beyond Defense Planning", DCAF Working Paper No. 72, August 2002.
[9]   OSCE, *Defence Planning*, Programme for Immediate Action Series, No. 4, 25 Nov 1993.
[10]   OSCE, *Code of Conduct on Politico-Military Aspects of Security*, section VII, Art. 21.
[11]   See DFID, *Promoting Institutional & Organisational Development*, March 2003, available at http://www.dfid.gov.uk/pubs/files/inst-org-guidelines.pdf

In any given order, the main organisations involved in defence planning, and at least in part in financial planning for defence, are the legislative body with its specialised commissions, the government with the key ministries involved in planning, finance and resource allocation, the ministry of defence, as a stand-alone actor, with its main departments and the military. In many cases of defence planning a specific organisation may also be involved that reunites for security and defence matters most of the actors mentioned above, usually chaired by the head of state (a national security/defence council).

The relationships between those organizations are complex by nature, as each of them hold a certain form and level of power. Before introducing the institutions that govern them, we should agree with Wim van Eekelen that, 'a successful defence policy relies heavily on a climate of mutual respect, recognition of professional competence and transparent decision-making procedures which reflect military as well as political inputs'.[12]

The main institutions governing over those organisations may be described as formal institutions and informal ones. The formal institutions are the legal framework of defence planning (usually a law or a set of laws and regulations describing the system and allocating responsibilities to the involved organisations), the legal framework of planning and of budgeting at the national level, other regulatory, enforcing or auditing mechanisms of a general nature, that may be applied to the defence sector as well. The informal institutions are the well-established customs and traditions in governance and defence.

We also may agree with the Department for International Development (DFID) of the UK Government that any organisational improvement may be successful only if it is allowed and enabled by those institutions.[13] If this is the case, let us cover briefly the organisational and institutional framework for improving financial planning and resource allocation in the defence area.

For many reasons, like the requirement of democratic control over the military or the need for transparency in budgeting defence,[14] a legal framework for defence planning is needed in order to ensure the functions of any state or government organisation involved in defence matters. This legal framework may go as far as establishing an overall planning and budgeting system or it may be limited to assigning roles and responsibilities, and establishing timeframes.

In his reference book, *Government Budgeting and Expenditure Controls: Theory and Practice*, A. Premchand discusses the development and characteristics of different planning and budgeting systems from an historical perspective.[15] There are

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[12]   Wim F. van Eekelen, "Democratic Control of Armed Forces: the National and International Parliamentary Dimension", DCAF Occasional Papers No. 2, DCAF, October 2002.

[13]   DFID, *Promoting Institutional & Organisational Development*, p. i.

[14]   OSCE, *Code of Conduct on Political-Military Aspects of Security*, Section VII; IMF, *Revised Code of Good Practice on Fiscal Transparency*, 2001, Section I.

[15]   A. Premchand, *Government Budgeting and Expenditure Controls: Theory and Practice*, International Monetary Fund, Washington D.C., 1989, pp. 319 – 354. For a comparative look at financial management systems from a family of systems point of view, see: OECD,

some observations of a general nature that should capture the attention of any governmental organisation seeking innovation. The national system of planning and budgeting may change over time, as new and innovative methods are introduced in other countries, and international pressure for reform may increase under certain conditions.[16] How often and towards what ends the change takes place is a question that may find as many answers as the nations involved. In any case, the main driving force for a reform should be enhancing both the effectiveness and efficiency of the process, where effectiveness is the expression of the relationship between purpose and result, and efficiency is the expression of the amount of the allocated resources related to the achieved results.[17]

One basic question is whether the planning and budgeting system introduced at the governmental level should be adopted as such by a ministry of defence, or whether it should be an independent and separate process at the defence level. One answer may be that, for a large and complex defence establishment, a separate but not necessarily separable system is recommended, while for smaller defence establishments the effort to implement and update an independent system is a too complicated endeavour. Another possible answer is the well known 'it depends'. That is to say that the circumstances are so different from one nation to another that one cannot propose a solution based only on the size and the complexity of the defence sector. One such condition is the stage and the pace of reforms in a certain nation. It may well be the case that a ministry of defence, taking stock of the fact that it is more thoroughly organised and that the need for a reform at defence level is more pressing due to its security nature, will take the lead in changing the planning and budgeting system before the government is ready to do so, usually as part of the defence planning reform. It may also be the case that the ministry of defence is the most conservative organisation in the government and very resistant to change, and that only an overall shift of procedures at the national level might be capable of imposing the necessary reform at defence planning level.

We may find some useful recommendations on what a planning and budgeting system should resemble in the following free interpretation of the IMF's Code of Good Practices.[18]

The defence-planning framework, both in its organisational and its institutional dimension should be distinguished from the rest of the government sector, as the government sector should be distinguished from the rest of the public sector and from the rest of the economy. For that matter, the policy and management roles within the defence planning should be clear and publicly disclosed. These requirements are

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Models of Public Budgeting and Accounting Reform, OECD Journal on Budgeting, Volume 2/Supplement 1, 2002.

[16] Recent requirements or recommendations on a sound and clear planning and budgeting system may be found in OSCE, *Code of Conduct on Political-Military Aspects of Security*, Section VII; IMF, *Revised Code of Good Practices on Fiscal Transparency*, Section I; UN, *Guide to Results-Based Budgeting*, United Nations, 1998; OECD, *OECD Best Practices for Budget Transparency*, 2001.

[17] Premchand, *Op. Cit*., p. 325.

[18] IMF, *Revised Code of Good Practice on Fiscal Transparency*, 2001.

based both on the principle of democratic control over the military and on the principle of financial transparency, and serve the purpose of enhancing performance on defence governance.

The structure and functions of different organisations within the public sector and within the government should be clearly specified. There should be a hierarchy of tasks and responsibilities: which organisations are involved in strategic planning, in operational planning and in execution. At the strategic level, strategic objectives are defined, what is the timeframe for attaining those objectives and what are the resources that the nation is willing to pay for those objectives. Usually, the leading document at the strategic level is the national security/defence strategy, issued by the head of state and approved by the legislative body (the parliament).[19] At the level of operational planning, where the financial planning is situated, strategic objectives are translated into operational ones, the missions for defence are formulated, the force structure is designed, and the resources are allocated to different programmes on a multi-year basis. At this level, the military strategy and the defence planning guidance are the main documents, usually issued at the ministry of defence level and approved by the government. The performance management is situated at execution level, and the parliament, the government and the ministry of defence perform managerial roles.

For that matter, the responsibilities of different levels of government, and of the executive branch, the legislative branch, and the judiciary, should be well defined. The role of the parliament is to enact laws and procedures for installing transparency and accountability, giving the parliament the power to enforce transparency and accountability,[20] to ensure that all budget documents are available, and to approve, disapprove or amend the budget. The role of the executive branch, the government, is to formulate policies, and to establish trade-offs between different sectors in terms of resource allocation. Among those responsibilities are defence procurement policy, the choice between conscription and professionals, or how much of the government expenditure should be allocated to defence, in comparison to the health and education sectors and other public goods.

Clear mechanisms for the coordination and management of budgetary and extra-budgetary activities should be established. Those mechanisms should include not only the methods and procedures within the execution phase, but also the decision-making procedures and responsibilities. It is of paramount importance to establish who is formulating the strategic assessment and the policy options, for what timeframe, and who authorises and controls the implementation of decisions. As Wim van Eekelen formulated it in the case of parliamentary control, 'if a rigorous method is not formalised, parliamentary control is in danger of becoming political rhetoric, leaving too many opportunities for the bureaucracy and the military to go their own way'.[21]

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[19] On parliamentary oversight powers, see some observations in Hans Born, 'Between Efficiency and Legitimacy: Democratic Accountability of the Military in the US, France, Sweden and Switzerland', DCAF Working Papers No. 102, October 2002, pp. 4-6.

[20] Hans Born, 'Learning From Best Practices of Parliamentary Oversight of the Security Sector', DCAF Working Papers No. 1, March 2002.

[21] van Eekelen, *Op. Cit.*, p. 8.

Relations between the government and non-government public sector agencies should be based on clear arrangements. Within the defence sector, more and more formerly pure military activities are externalised, hence the amount of interaction between the government and non-government agencies is on an ascending slope in many nations, resulting in a larger amount of contracts for procurement, food, health and other services, even for the security of military installations. Without clear arrangements, this type of activity may leave room for liberal choice, and even for corruption. All activities should be conducted on the basis of clear rules and procedures that are applied in a non-discriminatory way.

Comprehensive budget laws and openly available administrative rules should govern any commitment or expenditure of public funds. It is very important to establish clear methods for authorisation of defence expenditure within the approved budget and agreed programmes, such as the level of spending authorised at different levels of the system. Clear regulations should cover all contracts signed within the defence sector.

Ethical standards of behaviour for public servants should be clear and well publicised. In the defence sector, two totally different corps of public servants are represented: the civilian personnel and the military. Traditionally, they work under separate but well-established regulations of what they may and what they may not do on their duties. In some countries, other institutional instruments like codes of conduct (including service statements of core values and statements of standards), organisation mission statements, and standing operating procedures are not yet in the local organisational culture. Regulating the behaviour of civil servants and military is only one part of the process of influencing their conduct. High standards should be set also for managing their conduct. Traditionally, the military have a managerial framework comprising standing agencies to oversee the ethics policies and to sanction the breach of military behaviour regulations, while the civil servants behaviour is usually managed on the same framework as the rest of the public service within the government. One may expect good practice both from military and civilians if the working conditions, including fair human resources policies and welfare bonuses are included in that managerial framework. Most of the literature available on the topic of ethics for public servants deals with anti-corruption measures, and this issue is valid also for the defence sector of the government. But the key issue here is the fact that it is even more important to set high behavioural standards for military and civil servants in order to obtain expected outcomes from their work, as the actual result is not always easy to measure.

Another feature of the institutional and organisational framework in which the financial planning and resource allocation on defence operates is the increasing demand for a business-like approach in managing governmental activity in general and defence in particular. The main result of this approach is that the entire planning and budgeting system should be results oriented, not only at strategic level, but also in terms of day-to-day management. The literature covering this topic is growing by the year, most of it based on international experience. In a recent IMF Working Paper, Jack Diamond

summarised lessons learnt for middle-income countries.[22] Under the assumption that the ultimate objective is to obtain a 'system to match costs with activities, to measure performance of these activities, to develop standards of performance, and to compare costs and performance with the standards', he discerns six steps in order to develop a performance management system: improve definition of programmes and their objectives; provide a stronger link between budgeting inputs and programme outcome; make performance information relevant; present performance information on a consistent basis; provide incentives for managers to use performance information; and develop a system to monitor programme management.

A word of caution should be said in reference to who is going to design such a system, as it often has been the case that each category of people involved may be biased given its background. If it were to be designed by a predominantly economist-based group, then the results might be biased by economic thinking in disrespect to organisational thinking. If it were to be predominantly legal, then the norms might be imposing over organisational and economic mechanisms.

Principles of Financial Planning and Resource Allocation in Defence

There are many ways to approach the topic of principles in financial planning, from undergraduate textbooks to practice in large corporations or governments. Based on the finding that in each bibliographical source the list of principles, and especially the comments and examples are tailored for the likely readers and are biased by the personal experience of the authors, this section relies more on common sense than on scientific determination.

The starting point in financial planning and resource allocation should be the understanding that defence is a purely public good,[23] and, for that matter, the 'production' of defence has specific characteristics. The price a nation is willing to pay for its defence is not formed through market demand and supply equilibrium, as it will always be only one supplier – the state, who set that price, as it will set the quality and quantity of defence 'product'. The fact that defence is a purely public good should raise the awareness of managers and financial planners that they operate in different conditions from the market environment.

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[22]   Jack Diamond, *Establishing a Performance Management Framework for Government*, IMF Working Paper/05/50, International Monetary Fund, 2005.

[23]   For fundamental readings on public goods theory, see James M. Buchanan and Gordon Tullock, *Calculus of Consent*, Ann Arbor, University of Michigan Press, 1962; M. Buchanan, "Public Goods in Theory and Practice: A Note on the Minasian-Samuelson Discussion", *Journal of Law and Economics*, No. 10, 1967, pp. 193-197; M. Buchanan, *The Demand and Supply of Public Goods*, 1968. Available at <http://www.econlib.org>; Dennis C. Mueller (ed.), *Perspectives in Public Choice*, Cambridge, CUP, 1997; Paul A. Samuelson, "The Pure Theory of Public Expenditure", *Review of Economic Statistics*, No. 36, 1954, pp. 387-389 and "Pitfalls in the Analysis of Public Goods", *Journal of Law and Economics*, No. 10, 1967, pp. 199-204; Joe B. Stevens, *The Economics of Collective Choice*, Boulder, Westview Press, 1993.

An always-valid principle is that the objectives and the planning assumptions should be measurable in terms of specifications of the final product or status of readiness, of a timeframe for achieving those objectives, and in terms of cost limits.

If the objective is to create a helicopter unit for the army, the financial planner should know the type of helicopters in the unit (fighting, transport, or dual purposes), how many of each type, when the unit should be combat ready, what is the ceiling in total costs the army may afford to pay for the unit, how many flying and maintenance crews should serve in that unit, the duration of deployment for a combat mission, how many sorties and in what flying conditions the unit should be ready to fly in a certain period of time, what types of ammunition will be employed and in what quantity, how many flying hours a pilot or a crew should accumulate to be combat ready and other similar information. Without such detailed descriptions of the objective, it may be very likely that the flow of financial and human resources to meet the goal will have significant gaps, impeding the capability of the helicopter unit to perform its missions.

The decision-makers and the planners should understand the financial and non-financial effects of each financial decision, or, in other words, they should be aware of the total cost of a certain programme.

The effects of financial decisions on defence matters are not always straightforward. For example, if a decision to cut the numbers of active military personnel is taken, that decision will not result in a saving in personnel costs equal with the salaries that are no longer paid, as there will be an additional cost for the re-conversion of that personnel. Or closing a military base will require additional costs of ecologising the training ground and other parts of the installation that suffered from military activity. Especially for lower level managers, the understanding of financial decisions is more difficult to attain, due to insufficient or incomplete information. Most of the time, unit commanders will control or manage only a small portion of the total resources needed to fulfil their mission. Very often, they have to issue requests for payments to higher echelons for goods and services they had to contract, the costs of those contracts being revealed during the execution phase of the process, and not being planned from the beginning.

For medium and long-term programmes, early identification of total costs is paramount. It should include costs for maintenance, spare parts and consumables for the military equipment, the costs for training the personnel to use that equipment and so on. Otherwise, the defence sector may not take benefits from a new equipment, for either there is no personnel trained to serve it, or there is a shortage in the spare parts, or other costs are showing up, unforeseen from the beginning and, hence, unplanned for a certain stage of the programme.

Another important principle is the periodical re-evaluation of the financial situation of a certain programme, both at the strategic and at the operational level. The strategic plans usually have a long term, of five years or more, and require periodical updates. One venue to update strategic plans is through mid-term budgeting. This venue allows for resetting the programme priority list, resulting in a shift in the cash flaw to finance each programme. Another venue is through output information given by the annual revision of implementation plans of a certain programme. Information about

progress evaluation should be exchanged within the financial planners community at least on an annual basis.

This principle is important as the initial planning assumptions or the circumstances may chance over time. More than that, the programmes tend to gain a life of their own and to show survival behaviour, draining resources even if their relevance is fading in view of the changing environment. Periodical revisions of the financial status of a programme or, at the strategic level, of all programmes may reveal costs that may be cut, payments that may be postponed, or a flawless flow of resources for high priority activities. In a conservative financial planning environment, one may find a lot of examples of programmes that are still financed, even if they are not needed anymore, just for the reason that they been financed in the past.

The principle of avoiding unplanned spending is very difficult to observe in government financial planning in general, and in defence spending in particular. As at the political decision-making level, it is customary to think that this year's savings should be the next year's cut in financial resource allocation. The government agencies tend to spend whatever money they have in their coffers before the budgetary year ends, even if that money is paying for unplanned activities. This situation may be avoided if a multi-annual budgeting cycle is introduced, allowing for the savings to be transferred from one year to the other.

Planning for contingency situations is also difficult to do with public money, but life shows that more than often there will be a request for extra cash during a financial exercise. The most common example is a new and unforeseen crisis management mission that will throw the operational costs of the defence sector over the limit. Other contingencies may be an unforeseen shift in inflation or exchange rates. What solutions a financial planner should find to observe this principle depends very much on the national or organisational culture. One trick is to plan a cash flow for a lower priority programme. If the contingency occurs, the finance for that programme may be easily postponed, if not, then that programme will be a lucky one.

Both as a principle and a word of caution, it is important to understand whom the financial planning process should satisfy. There are several categories of people and agencies the planner should have in mind. In any order of preference, we may identify here the 'customers' of defence, namely the nation in a general sense and the political representatives of the people in a practical sense, than there are the managers at all echelons, and, finally, there are the comptrollers.

The natural tendency is to satisfy firstly that category that may impose the most severe sanctions if not satisfied, and, in most of the systems, this is the comptroller. The problem here lies with the fact that the comptrollers are satisfied by the full observance of the regulations in spending, and not necessarily by the efficiency and the effectiveness of defence spending. If the system itself is not oriented towards performance, we may say that even the managers may be much better satisfied by the provision of as many financial resources as possible, than by the solutions to spend those resources in an efficient and effective way.

And, finally, a good principle is to invest in expertise in order to save money. The expertise may be employed on a permanent basis, by creating boards or commissions at the ministry and service levels, or other permanent advisory agencies

within the organisation. Experts from research institutes and academia may be invited to sit on those forums, or may be approached on a case-by-case basis. Or, the MOD may contract consultancy firms or research institutes to perform expertise on specific problems. The most appropriate solution depends on the specificity of the planning environment. Even within a ministry of defence, at different levels and on different agencies one may find that the planning procedures differ in quality and level of details. The expertise should be tailored to the specific environment and specific problems. The task for the managers, being either politicians or military, is to evaluate the internal capacity for expertise, to formulate requirements or demands for expertise and to find the best solution to offer the financial planners the expertise they need in order to perform their tasks at high standards.

Steps Towards Transparent and Efficient Financial Planning

The broad objectives of financial planning are to effectively control the fiscal expenditure, to achieve efficiency in the delivery of defence, namely, to produce outputs at the lowest possible cost, or to produce the maximum output with the given resources, and to determine the most profitable composition of defence spending, namely, to achieve the highest possible level of desired outcome, given the needs and demands of the fighting units, formulated to meet the political goals and priorities.

The first step in financial planning is to determine and review the financial information. This may be quite a complex and often painful exercise, as the amount of financial resources available for a certain period of time does not reveal itself easily.

Reviewing the financial information takes place both at the strategic and operational levels. The most general information is about what the acceptable level of defence spending, as a national effort, should be. This decision takes the form of a political statement, in the highest defence policy document (national security or/and defence strategy, white book on defence, or others as the kind) showing the percentage of the Gross Domestic Product (GDP) allocated for defence. Expressed both in terms as a percentage of the GDP and the nominal value in a country's currency (or at the current exchange rate) this is the first information on defence that not only the financial planners are looking for, but also that the international monitors usually report on in their books.[24]

The percentage of the GDP for defence spending is not necessarily a direct answer to the threats and risks that should be countered or deterred, or to the national interests that should be defended. It is more a 'social contract', as well as an understanding among national and international actors.

There are several factors that influence and determine the final figure. One may be called the trade-off factor. In a OECD working paper, Paul Atkinson and Paul van den Noord are basing their policy analysis on how several OECD countries manage

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[24]　See e.g. Central Intelligence Agency, "The World Fact Book", available at <http://www.cia.gov/cia/publications/factbook>; Stockholm International Peace Research Institute, *SIPRI Yearbooks*, available at http://www.sipri.org/contents/publications/yearbooks.html

their public expenditure on three sets of governmental functions: public goods and services, merit goods and services, and economic services.[25] Public goods are defined as those 'goods and services that cannot be rationed by the price mechanism and therefore would not be supplied in efficient amounts if markets were used to make them available'. In this category they include national defence, general public services such as administration, legislation and regulation, and other services. Merit goods are defined as those 'public goods that in principle could be (and in most countries to some extent are) made available through markets. In many cases, government provision of such goods and services is justified because of a conviction that they would otherwise be provided in less than the efficient amount, because a significant number of consumers lack the required purchasing power, while externalities give these goods and services a public goods element', and in this category they include education, health and other social services. Finally, the economic services refer 'to the provision or co-funding of private goods or services by the government. Intervention has often been felt to be desirable in markets for goods and services that are prone to natural monopolies, where externalities are judged to result in inefficient supply if provision is left to the market, or where particular groups of providers are felt to warrant assistance', and include public utilities and financial support for specific activities. The trade-off that determines how much would be allocated for defence and how much for other public goods may be approached by the opportunity cost model. Nicknamed 'guns or butter', the model starts with the assumption that the defence expenditure prevents other governmental functions from financial resources, namely what is allocated for defence cannot be allocated for health or education.[26]

Another factor is the relationship between the GDP percentage and the percentage of the general government total spending. Nations have different approaches and policies regarding the total outlay of government disposition from the national wealth. If, for example, a general government total outlay represents 20% of the GDP, and the defence outlay represents 2% of the GDP, it means that defence receives 10% of the general government total outlay, as compared with another nations that still spend 2% of the GDP on defence, but the general government total is 30% of the GDP, in which defence expenditure represents only 6% of the general government total outlay. We may assume that the bargain to get as much as possible from the government's total is more demanding when the defence requires more from the government than when it requires less. Usually, this bargain takes place when the allocation process is a bottom-up one, namely, when the first step of the process is for the ministries to issue requests, and then for the top bodies to grant a larger or smaller portion of the requested resources. For a financial planner, this is a means to live in

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[25] Paul Atkinson and Paul van den Noord, *Managing Public Expenditure: Some Emerging Policy Issues And A Framework For Analysis*, Economics Department Working Papers No. 285, OECD, 2001. The authors note that this breakdown has been introduced by Oxley and Martin (1991).

[26] See e.g. UNICEF, *The State of the World Children 1996*, available at <http://www.unicef.org/sowc96/8mlitary.htm>; Catalina Perdomo, *Tables of Public Expenditure*, (a comparison of military and social expenditure) SIPRI, 2005, available at http://web.sipri.org/contents/milap/milex/bgpapers/mex_priorities_data.pdf

uncertainty until the request is granted, and still to continue planning. An institutional solution to this problem is the 'introduction of top-down spending ceilings, consistent with the medium-term expenditure frameworks, with the elected officials retaining an important role in designing the overall budget and stating spending priorities'.[27]

One other factor in establishing the portion of GDP allocated for defence is through international determinants. If a nation is involved in a negotiations process with the International Monetary Fund or the World Bank, or another international assistance or donor agency, it may be more likely that the level of defence spending be on the negotiating table.

Even if the percentage of GDP is well determined for a longer period of time, preferably long term or, at least, medium-term horizon, the information about financial resources may not be accurate enough, because, for one reason, the GDP itself may not be accurate enough. More reliable data may be given by the nominal value of defence expenditure. But the best information is given by the general government budget. For many practical reasons, it is highly recommended that the budget should be a multi-annual one. Mid-term budgeting will give the financial planners the required information enough time in advance to design the appropriate measures for a sound implementation of the strategic objectives.

The information in the budget is traditionally classified along budget lines. The level of details of defence outlays in the total budget approved by the parliament differ from nation to nation, and information on overall allocation differs accordingly. For reporting purposes at least,[28] the main categories should be operating costs, procurement and construction, and research and development. Under operating costs most nations report personnel expenditure, with the sub-lines, conscripts, other military personnel, civilian personnel, and operations and maintenance, with the sub-lines materials for current use, maintenance and repair, purchased services, rent costs and others. It depends on the national budget, appropriations and procurement system of the budget submitted for approval to the parliament if the level of detail is going deeper than the international reporting requirements. How detailed the defence lines in the total budget are should be of interest, as we may presume that any transfer from one line to another during the execution phase should be approved also by the same parliament that approved the budget by law.

Even if financial planning is considered an operational level exercise, all this strategic level information is very important for financial planning, but not sufficient. To answer the question on how much money would be available to accomplish the tasks involved and, especially, the organisation's mission, the financial planner should also collect information about prices, credits and additional financial resources, all mission related events during the planning cycle, stocks and so on.

At the ministry of defence level, the financial planner should evaluate all policy-based programmes, examine their costs, identify the constraints, determine what

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[27] Atkinson and van den Noord, 2001, *Op. Cit.*, p. 40.
[28] United Nation Instrument for Reporting Military Expenditure, available at http://disarmament2.un.org/cab/milex.html

the medium-term framework should be, set the fiscal aggregates granted by the government, and lay down broad spending allocations or ceilings to the services.

The planner should be confident that he understood the organisation objectives correctly, regardless of the manner in which they were formulated officially. If the objectives are of a more general nature or the policy guidelines are superficial, he should ask the top officials as many questions as he needs to acquire an in-depth understanding. The simplest solution is to ask for a description of the end-state of the implementation process: how things will materialize when the process is complete.

Information should also be collected about the needs and demands of different services and brands. Even if the process is a top-down approach, the financial planner should not be oblivious to what resources the services and lower agencies may expect to receive to accomplish their goals.

Another important piece of information the planner needs to know is the level of detail his plan should go into. There are managers that like to have a complete and detailed picture of the cash flow, down to the smallest piece of stationary that should be purchased for the less significant office. For those, the planners should go with their financial plans down to the level of details expected by the manager. Others may want to have only the big picture, leaving the details to the lower echelons. In such a situation, the task of the planner is to recommend solutions only for that level.

The next step in financial planning is to develop and defend financial planning recommendations and alternatives to the appropriate manager, a commanding officer or a senior civil servant.

Almost the same process takes place both in the phase of budget preparation, namely in issuing requests for the next budgetary cycle, and in the phase of budget implementation. The financial planners will issue recommendations as to how the organisational goals should be addressed from the resources point of view.

The main condition here for the financial planner is to have enough relevant information about those objectives and the policy the manager formulates for his or her organisation on how the objectives would be attained. For this task at least, the financial planner should have more skills and knowledge on management science than on accounting. A good set of recommendations requires a balanced mix of innovative thinking with a rigorous approach to finance. He or she must master at least a basic set of instruments and methods for analysis, estimation and forecasting. And he or she should rely heavily on teamwork. The financial planning process, if it is not an integrated process with organisational planning should at least be a collaborative one.

The recommendations should start with planning assumptions based on the information available at that moment. Those assumptions should address the uncertainties and the risks that might alter the execution phase of the budget. How the cash will flow during the budgetary cycle, will there be any change in the priority list of programmes and activities, are there any external circumstances that may influence the execution phase that have to spend the cash, are some of the basic questions for which the planner should assume answers.

The recommendations should include the appropriate ways to achieve the goals, evaluation of the impact the financial actions may have on other organisational actions, prioritisation of different courses of action, cost-benefit analysis, and detailed

activity plans for each course of action. Developing alternative courses of action requires multiple scenarios and contingencies and methods of comparison between differing solutions. Modelling may prove to be a powerful method to test proposed solutions against different scenarios.

The requirements mentioned here are for financial planners in defence organisations oriented towards achieving performance in implementing defence planning. We have to recognise that most of the time and in most defence organisations those requirements are overlooked for a multitude of reasons, and financial planning is reduced to formulating budget proposals and accounting methods. In many places, even the organisational planning is missing, creating a functional gap between objectives and budgeting.

At the same time, we should be aware that the quantitative analysis or, for that matter, any scientific and methodological approach in the preparation of decisions should not substitute or impose over the military and political judgement.

For any foreseeable problem, the planner should add to recommendations a set of alternative solutions. It is not up to him to decide which one should be accepted; this is clearly the manager's remit.

Once the recommendations are drafted and the alternatives are identified, the financial planner should go over them with the decision-maker in that organisation, to help him/her understand them so that he/she can make informed decisions. This process of presenting and discussing recommendations and alternatives should be reiterated as many times as is needed until all the information is absorbed by both the manager and the planner and the final decision is taken. It is a good piece of advice for the financial planner to 'plan' from the beginning for at least one extra round of discussions with the manager, as very often it will be the case that not all the concerns and the caveats expressed by the manager were integrated into solutions from the beginning. Another piece of advice is that the list of alternatives should be exhaustive. The planner should not stop identifying alternatives when he thinks that the most likely ones were already on the list, or that the list is already long enough.

It is highly desirable that this process be a transparent one. The higher the echelon, the more important the transparency of the process becomes. This will give good opportunities to the key members of the organisation and to the subordinate elements to be involved in the process at an early stage, and to the planners at lower echelons to acquire the information they need to draft their own plans. The transparency should be also on behalf of the higher echelons and to external people, if possible to the public, ensuring that the process of resource allocation is fair and serves the higher objectives. Together with the focus on policy programmes, transparency implies a very active role for departments in this stage of the planning process.

Under the conditions of a sound defence policy, and of clearly set goals, missions and tasks in strategic documents, decentralised roles may be granted to different departments to make programme allocation or re-allocation decisions within their overall allocation from the defence budget. However, decentralising allocation decisions should be part of a complex but clearly regulated system, comprising the determination of priorities, strategic and operational planning, budgeting and financial planning, and performance and financial management.

There are specific procedures for implementing the financial planning recommendations. This specificity is given by the budgetary execution and programme execution regulations that may differ not only from one nation to the other, but even from one service to the other within the same ministry of defence. Theoretically, the implementation phase belongs to the financial management and not to financial planning. However, in the framework of a multi-annual planning system, the financial planners may need to have mid-term inputs, to revise and amend their plans due to a rapidly changing environment.

In any case, the manager should exercise the function of periodically reviewing the financial plan, as achieving efficiency is a policy process. The overall accountability for the level of efficiency attained by the resource allocation process rests with the centralised decision-making body, normally the Ministry of Defence, under the political supervision of the Parliament, at least at the level of specialised commissions. Reports issued for this purpose should address explicit comparisons of budgeted and actual outcomes, and should aggregate the information about allocations and re-allocations made under departmental authority. This condition may be better met if the legal or regulatory provisions comprise a medium-term budgeting framework, namely a multi-year budgeting cycle. Such a provision enhances accountability in allocating decisions by facilitating comparisons between the previous year's budgeted estimates and the current year's actual expenditure outcomes, as well as between the previous year's forward estimates and the current year's budgeted allocations. This regulation is also important because most of the time it will not be a perfect match between strategies, forces and budgets, nor between the agreed trade-offs and the actual results. Through a clearly defined multi-year cycle the shortcomings over the past year can be more effectively sanctioned through mid-term adjustments.

Resource Allocation Dilemmas

There is extensive literature on the theoretical approach to resource allocation and to the practice of budgeting around the globe.[29] It is not the place and time now to engage in a discussion on what is the most appropriate theoretical approach, nor what is the best practice of managing resources at the general government level, as revealed by the literature. What we should address in this section are some broad ideas on the process of the allocation of scarce resources to competing bidders, within the defence framework. The allocation dilemma is not, as it may look at first glance to establish which service will receive more and, by default, which service will receive less. It is

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[29] See e.g. OECD, *Budgeting and Decision Making,* SIGMA Paper No. 8, 1996 (a "reference book and a training manual for public administrators in the transitional economies, and in particular for officials with budgeting and policy-making responsibilities"); Barry H. Potter and Jack Diamond, *Guidelines for Public Expenditure Management*, International Monetary Fund, 1999 (on merits and limitations of different budgeting systems at general government level); Adrian Fozzard, *The Basic Budgetary Problem*, ODI Working Paper No. 147, Overseas Development Institute, London, 2001 (on different theoretical approaches to budgeting).

about what should be satisfied by the allocation process: the demands issued by services and other agencies and departments, or the goals set by current policies. And it is also about how to balance the trade-off between operating costs and development costs.

It was often said that the budget is the mirror of policy. This metaphor may be translated in two ways: one is that the budget may reveal the actual intentions of the leader of an organisation by seeing where the money goes, and the other is that budgeting is about making hard choices, which by nature is a political process. In practice, the later interpretation is more plausible than the former one. Facing hard choices, most decision makers will tend to postpone their decision to the last moment, namely to postpone payment of the costs they have to pay for it, usually at a higher cost for their organisation. In a traditional bottom-up budgetary system, where the budget is prepared based on the requests from subordinate echelons, this behaviour will lead invariably to hasty decisions. Most of the time, when aggregated, the requests issued by subordinates exceed the available resources and, in a hasty decision making process the merits of those requests may easily be overlooked and the inevitable cuts will be made arbitrarily. At best and depending on the level of authorisation or discretion in the budget structure, the decision maker may announce the subordinates about his or her intent and ask them to formulate new requests based on the total amount of resources they are going to receive, with only a few days before the budget is sent to approval. The subordinates will hastily operate adjustments with total disregard to any scientific methodology of the decision-making process.

How can such a situation be avoided? Apart from a change in budgetary regulations, a managerial solution may be to set allocation constraints from the beginning, which means that the subordinates will receive from the beginning, ceilings under which they should formulate their requests. This means that the top decision maker in the ministry of defence will establish services spending limits that fit the defence policy priorities before the submission of budget proposals. This top-down approach will give the service commanders sufficient time to formulate their requests based on sound analysis and evaluation. Ideally, the process should be completed with iteration and reconciliation mechanisms. The key condition to implement such a procedure is transparency in the budgetary decision-making process.

In a bottom-up budgetary system, the requests issued by subordinate organisations and agencies may not be sustained by explicit information about the merits of each programme or activity for which the request is made. A basic explication of this situation is the fact that the spending organisations have no incentive to propose voluntary cuts, knowing that its request enters on a bidding process where it is advisable to ask more than you need, in order to get what you expect. As it often happens in the preparatory phase of the budgeting cycle, the discussion between the spending organisation and the decision makers is done on the inputs only, without any connection with the expected results. In a zero-sum-type negotiation, the parties will focus on the incremental raise of how much a commander will receive, which is also a loss for another commander. To have more chances of success, the bidders tend to introduce in negotiations extra-performance criteria, such as lobbying or exercising

political influence. The best way to reduce the negative consequences of this dilemma is to apply merit or performance criteria at the earlier stage or budget preparation.

The bargaining phase of budget preparation reveals also conflicting interests among the spending agencies. The conflicting interests reveal themselves especially between services, and win room for manoeuvre when the negotiating environment is not cooperative. The most dangerous situation occurs when the result of the compromise is an under-funding of a key joint programme. The compromise itself may be an inefficient one, like distributing cuts evenly among all spending agencies, or allocating more resources than the ministry can afford, by underestimating long-term commitments. If the national financial environment is volatile over the budget cycle, e.g. if the inflation is very high, it is the practice to introduce a mid-cycle review of the budget, which is also an opportunity to receive more resources. Such a situation may be a strong incentive for the decision maker to postpone his decision instead of finding a compromise from the beginning. The influence of conflicting interests over the budget negotiations may be reduced by a clear and firm reiteration of the main defence objectives and missions, and by building up cohesion among the negotiating actors around those objectives.

The trade-offs between the operating costs and procurement, and between personnel costs and operations and maintenance are among the hardest decisions the minister of defence, in many countries, has to take. As a result of either 'peace dividends' or of a reduced or even negative economic growth, defence budgets are shrinking. The pressure for modernisation seen in the introduction of new equipment is always an important political objective, especially if the demand for such equipment should be issued to the internal industry or to strategic partner nations. The level of personnel welfare becomes a constant concern. The need for a better-trained force is always present as a genuine interest of commanders. All these issues put a lot of conflicting pressure on the ministry of defence. As a result, we may see national armed forces that allocate over 70% to personnel and over 80% to operating costs.[30]

This dilemma may be solved by a well-articulated defence policy, integrating the political vision and political options of the parliament, the president, the government, the military and civil society. Based on such a policy, the decision to cut personnel expenditure by decommissioning and re-conversion, to abort conscription, to raise the salaries of military and civilian personnel, to buy new equipment, to engage in costly exercises, to send troops abroad in coalitions or peace-keeping missions would be soundly justified and easily accepted by the military and society.

In any form it may take, a defence policy document should address some basic elements with straightforward consequences in the resource allocation process. The political objectives and the strategic military missions should be clear and based on the political mandate and institutional requirements ensuing from the constitution and the organic laws governing the defence. Those objectives should be accompanied by a

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[30] United Nations Secretary General, *Objective Information on Military Matters, Including Transparency of Military Expenditures: Report of the Secretary General*, 30 July 2004. Available at:
http://daccessdds.un.org/doc/UNDOC/GEN/N04/447/73/PDF/N0444773.pdf?OpenElement

broad description of the desired outcomes, formulated not only in terms of numbers of personnel and equipment, but also in terms of combat and support capabilities. The policy document should also reveal the tactics by which those outcomes would be achieved, and should be supplemented by a description of the actions and processes that will support the tactical measures. And the policy document would not be complete without a broad cost estimate of that policy.

Conclusion

In any defence organisation, there is room for improvement and in no domain would any improvement be more visible than in financing the defence sector. Structural, organisational, functional and institutional changes are thought to make the defence planning process more streamlined from policy formulation to the actual production of military power. Most of the changes are time consuming and resources consuming and a higher degree of managerial skills and political resolve is required to perform those changes.

Being a large-recognised condition of confidence building among the international community and a strongly recommended measure of democratic control over the military, transparency of defence planning and especially of defence budgeting is also a very powerful incentive for governments and ministries of defence to consider introducing performance criteria in defence institutions building.

Off all the ways to improve the defence sector performance, the institutional and behavioural changes are the fastest and the cheapest, especially if they are performed in key areas of defence planning, including financial planning and resource allocation.

The main characteristic that singularises defence from other governmental sectors and gives specificity to financial planning and budgeting is the fact that defence is a purely public good. At the same time, most of the principles that govern these processes are of a more general nature, and best practices and good governance methods may be adopted from the experience of other sectors or even from private business. For nations that are recipients of international assistance, it is advisable to follow the recommendations from the codes of conduct accepted by the international donors.

Any approach to financial planning and resource allocation should be contextual and should capture the specificity of the defence-planning environment in a given nation. Financial planning and budgeting, if handled properly, may become a significant part of transformation engine of the military, but those domains should be maintained at the same pace as the defence policy and strategy, and with force planning, as being not only a part of the same domain, but also part of the same culture.

The role of the expert in the field of financial planning should be enhanced. The costs of introducing scientific approach to decision-making in defence management will always be smaller than the benefits resulting from it, but one should be aware that the expert does not replace the military or the political judgement of the commandant or the minister in taking decisions.

These are neither universal solutions, nor ready-made methods to introducing higher performance in these areas. What this chapter has tried to do has been to raise awareness about the wealth of expertise that exists in the international scientific community on finance planning, as well as that which stems from both the older and more recent experiences of many nations with respect to the introduction of new concepts and methods in allocating resources.

Chapter 10

Economically Viable Management and Defence Spending

Mr. Mihály Zambori

> *'The most considerable issue in modern societies is money. There is only one more serious matter in democratic societies: public money'.*
> 1 *(Csaba László, former finance minister of Hungary)*

Introduction

The state and the government are responsible for fulfilling tasks related to the defence the country. More precisely, the ministry of defence is in charge of doing so. In cooperation with other ministries, it organises and assures the defence of the homeland. The defence economy is that part of the national economy that incorporates defence resources, uses them professionally, and transforms them into defence capabilities. The main source of defence spending is the central state budget, and planning for defence spending is an integral part of the central budget planning.

The planning of the defence budget can be based on either real demands or on available resources. The first means that the necessary resources are attached to the real tasks and goals. In the other case, scarce resources determine the planning and, consequently, the actual tasks and goals. The planning process in Hungary is a good example of the latter method. In this article I show how defence planning, procurement processes and mechanisms of budgetary control can improve the management of defence spending.

Defence, the Budget and the State

The budget planning process varies considerably from country to country. In many states, one can observe a double-vectored method, the so-called 'top down' technique. This means that the requirements and the 'cornerstones' are decided at the upper level.

Based on these, the budget estimates are worked out at lower levels and sent back to the central planning bodies to be summed up into unified estimates. According to legal rules and budgetary experiences, countries can design their own annual defence budget structure. It is a general characteristic to separate personnel and maintenance costs as well as research and development (R+D) expenses.

It is also a common phenomenon of defence planning that the different time-based concepts are complementary. The long-term defence concepts heavily vary in their time frame (from 6 years until 20), in details and in shaping. The mid-term plans generally already contain concrete development and procurement ideas. Their time frame goes from three to six years and they exactly determine the subsequent phases of the programs. The short-term annual (or two-three years) defence spending is a common time frame of long- and mid-term concepts. In democratic states, every penny of defence spending must be justified in 'fierce' parliamentary debates (the committees, the one or two chambers, and the plenary debate). The defence budget after governmental and parliamentary approval is not classified, so, at least in theory, every interested party can have access to the budget. The use of defence budget is controlled continuously, while the change of tasks will mean the modification of estimates. Moreover, it is general to have thorough mid-year, then annual, check on the use of budgeted funds.

As mentioned above, defence spending is an integral part of the state budget, which derives primarily from the taxpaying citizenry. Consequently, its planning and use are determined by state rules and the necessary requirements of transparency, efficiency and cost saving; however, the defence spending subsystem has its own specialties within the state budgetary system. These specialties derive mainly from the nature of tasks. Defence management, based on the allocated funds, has to guarantee the defence of the homeland, the territorial integrity and sovereignty of the state, the defence of national economy, and last but not least the fulfilment of alliance commitments. In this context, defence is actually a public need, politicians determine its required level, but its realisation is carried out by the military. The politicians in the 'sea' of state tasks examine the possible allocations of sources, while the soldiers have to maximise the provided level of security and services from these allocated funds.

Further specialities are the national security aspects of defence, so complete transparency, which is a basic principle of the state administration system, must be limited in this case. Unfettered open market competition for defence materiel, as a basic principle of public procurement process, also cannot succeed fully in the case of maintaining protected industrial capacities.

Now one may ask: what is needed for this service, namely for national defence to reach a satisfactory level? Where is the satisfactory level? The preparation of national security documents is the task of the military, but the politicians carry out the approval, and finally the legislature decides. According to the proposed security documents, politicians decide on the level of security offered to citizens. It is also their competence to allocate sources to the accepted concept. The military returns its wishes concerning the necessary tools and funds, which are essential to realise the accepted concept. If the reported needs exceed the allocated sources, then public officials have to decide once again whether to allocate more money or change the concept. Actually,

this is how the Hungarian Defence Planning System (DPS) works in principle. The military has to show to the political decision-makers and to the financial bureaucracy of the government the quantity of resources needed to acquire the defence capabilities and its budgetary effects. I think that this can be what guarantees the priority of defence spending vis-à-vis other areas of state budget and the right way of spending the taxpayers' money in case of a budget management that has only limited resources.

The systemic political and economic changes in Hungary happened under heavy budgetary restrictions. The military leadership realised already at the beginning of the big changes the very importance of optimisation of planning processes, procurement and use of scarce budgetary money. The leadership recognised that the most vital step to reach this was to modernise the defence-planning system.

It was clear already in the early 1990s, during the preparation of the first concept of long-term program and mid-term plan of military modernisation that in the one-year framed planning system of the state budget it was impossible to establish the goals and tasks of military reform and to allocate the required resources and funds. Time proved that this was true.

Hungary became a NATO member on March 12, 1999, which resulted in conferred rights and privileges, but substantial commitments as well. Because of these new membership commitments, Hungary found it crucial to establish a budgetary system fully compatible with NATO standards. In the field of defence spending, the new Defence Planning System was and continues to be responsible for Hungary's meeting NATO standards.

The Defence Planning System (DPS)

The foundations of Hungary's DPS dates to 1994-95, when the leaders of the ministry of defence set among the requirements of DPS, besides the specific needs of defence, the satisfactory civilian and parliamentary control and the conformity of the indigenous system to Alliance's planning mechanisms. The establishment of the budgetary system in Hungary was not easy, but it succeeded and its probation continues through 2005.The results and experiences can be only partly put together; their collection and analysis continue; however, the planning of the defence budget is only one side of the management of defence spending. I regard the creation of an effective procurement system and the realisation of economic controlling also very important. While the effective procurement assures the economical use of the wisely planned sources, controlling gives the necessary feedback of the processes. Their role is as important as that of the planning, because the sources are used throughout the procurement system, while the controlling system gives vital information to improve the planning and the procurement through feedback mechanisms. Beside DPS, these two may also be regarded as systems, although their institutionalisation has not happened in Hungary. Not yet, at least.

The Importance of Planning and the Principles of Modern Defence Planning

Task orientation – cost sensitivity: Budgetary demands must be linked to concrete tasks, not to estimated limits. To do this, we need such indicators of the tasks, which make the separated planning of the related costs of a given task possible by relying on objective quantitative and qualitative indicators. This requires the establishment and operation of a financial management information system, which is suitable for summing the costs of the given tasks by unified methods in the whole spectrum of the national economy. With the help of this cost-calculating method, beside the direct costs, the divided part of the general costs related to a given task can be charged (generally in the proportion of the indirect costs). Contrary to this, the expense means a paying commitment fulfilled in a given period, so the expense-oriented planning and settling hides and tangles the real costs of the tasks.

Task-Oriented Planning:

- Assures the necessary cost-sensitiveness at every decision level;
- Makes it unavoidable that the one who orders a task should be responsible for taking into account its budgetary effects;
- Gives good feedback to refine the task norms of the next period planning;
- Gives an opportunity to objectively analyse, assess and control the economic activity of those who carry out the task;
- Makes transparent the budgetary economic activity linked to the tasks;
- Makes political and civilian control, as well as relative transparency and accountability, to the polity possible.

Complexity: The complex defence planning is such a system, which is based on continuously updated, legislatively approved military political requirements (reflecting the security interests of a sovereign state) and on concrete defence performances (broadly negotiated by the government). Consequently it assures a balanced, flexible, multi-time framed planning.

Complexity is assured by the harmony of all directed extension. The complexity of requirement setting is guaranteed if the decisions take into account all the elements of the security policy (foreign, internal, military, economic, social). The starting point in the logical subsequence of the planning processes is the translation of the needs of defence requirements into military-technical plans. To define these, it is necessary to take the material-financial conditions constantly into account that requests the establishment of a feedback planning mechanism, which deals with corrections. It must be ascertained at every level that the definition of a task should only happen if the necessary conditions are available; moreover, methodological harmony with the national economic planning has to be secured, while constant negotiations with related legislative and governmental organisations are essential.

Looking forward: Military planning must contain different time frames. The different termed plans are based on each other, which results in a unified system of plans. Long term planning (seven-ten years) is needed in case of development of weapon systems and military equipment, their introduction into service and withdrawal from service, the planning and realisation of considerable infrastructure related investments, the assuring of conditions of the needs of economic mobilisation. According to long-term plans, mid-term planning (three-five years) is required: the change of personnel and order of battle of the military, the procurement of certain military equipment and the preparations for construction investments, the modification of training, recruitment, social security systems, introduction of new training methods and new equipment. The program budgetary planning continuously takes the relating costs into account. Short-term planning (one-two years) is needed in the case of annual budgetary planning, based on the actual components of annual, mid- and long-term tasks.

The program budgetary planning method (PPBS, which emphasizes that the tasks are based on projects) serves well the goal that the different periods are based on each other, because it calculates the estimated total and annual effects of multi-year development tasks, so it gives an opportunity to incorporate them to the different termed plans. The harmony of state and military planning could be guaranteed by the operation of the mid- and long-term planning system of the state administration.

Flexibility: During the realisation of a plan, its deadlines and conditions may change to require the modification of the plan. The continuous 'maintenance' of the connected planning periods creates the possibility of 'rolling'. This rolling planning offers a flexible way to list realistically the short-term tasks and to refine and complete mid- and long-term plans.

Transparency: It is a natural demand from politics to be able to see clearly how the defence requirements are implemented in military planning. The 'products' of military planning must be frankly represented in order to have the plans approved and supported. The best tool to do this is through the media. In short, democratic control over the defence of the state dictates that it is necessary that the taxpayers see how the state spends their money. This can be done by a synthesized presentation of plans, use of clear and easy language, and the explanation of military categories and terms, but at the same time adhering to the rules on military and state secrets. The presentation of plans has to make it possible to compare and analyse them.

The conceptual requirements of military-economic planning: During military modernisation, every level of practical realisation of planning principles consistent with an open and transparent government must be taken into account, which is necessary for appropriate fulfilment of the needs of planning.

The military budget in Hungary is based on a so-called 'double-circled' planning system. The first circle means the planning at chapter level, while the second is the planning at institutional level. The ministry of finance directs the planning of chapters. The institutional budget in the military means that based on its organisational structure, every military organisation, which has a legal capacity and its own economic-financial section, prepares an institutional budget.

The Past and Present of Defence Planning

The problems of defence planning in the socialist era, the positive and negative effects of the regime change, and the present shortcomings brought to the surface the need to reform defence planning.

During socialist period in Hungary, the main criterion for military planning was dictated by Hungary's membership in the Soviet-led military alliance. The international organisations (the Warsaw Pact as a political-military organisation and the Council for Mutual Economic Assistance as an economic consultative body), which were meant to camouflage open Soviet influence, made it possible to subordinate national sovereignty legally.

In military aspects, the general staff of the Soviet armed forces, in line with the Soviet security political interests, established the military needs, which were further divided to the component country level by the staff of the unified armed forces (which commanded the militaries of the members of the Warsaw Pact). The proposals (read: demands) of the staff of the unified armed forces to every member state contained, in line with the secret strategic plans of the Soviet military leadership, the development needs of the military detailed by branches, services, troops, organisational structure and military equipment. These 'proposals' covered five-year periods.

The general staffs of the member countries, incorporating them to the five-year plans of the military, elaborated these so-called proposals. According to the Hungarian experience, these demands of the staff of the unified armed forces were excessive (exceeding the limits of natural resources). The accepted elements of the demands were involved in the five-year plan of the military, and then the leadership of the ruling state party guaranteed the approval of the plan at governmental and legislative level.

The command of the military was a high priority of the state party. The party regularly analysed the tasks, development, organisational and personnel aspects, moral status and political mood of the military and made direct decisions to influence those. The main problems of this planning system were that the Soviet influence left only little room for realising national interests; despite standing agreements, there was much uncertainty in the planned realisation of procurements of military hardware; the stiff system of five-year plans made it difficult to have the necessary corrections, thus to bring the plan in line with the actual situation; the fulfilment of the ordered and stepped-up development tasks led to the deterioration of functional conditions.

In sum, although this system damaged national interests, lacked flexibility and hampered innovation, it was constant and made it possible to learn well the five-year military planning.

After the change of the regime to more accountable governance, the dissolution of the socialist alliance system terminated the political, economic and military constraints and gave the foundation and the necessity to create the independent national defence planning. This embryonic process, however, was slow-going and filled with uncertainties, due in part to a lack of tradition, experience and expertise; the slow preparation of the military-political and reform plans; economic performance declined considerably during the early 1990s, the uncertainty in adapting to democratic

politics, and a general lack of the new concepts of defence planning; every kind of planning activity was regarded as a return to the past planned economy; and Hungary's delay in requesting foreign expertise.

The uncertain, often changing, market economy further problematised the conditions the defence planning process, and the interim years have not led to the establishment of a state planning system to plan for future years. The leadership in the fiscal and financial spheres worked with operative (annual) plans because of the lack of mature, mid- and long-term (three-, five- and seven-year) concepts, programs or plans, which would also reflect the commitment and responsibility of the political leadership. The lack of a national economic planning system hampers the establishment of a rational system of defence planning.

The budgetary sources have decreased continuously in real terms that in line with the political goals, led to the reduction of the armed forces. However, the steps taken to reduce the military were dictated by constraints and not by a consistent military reform. There was not a political decision based on security political analyses, which would have defined military performances; moreover there were neither economic nor financial planning for its realisation. The creation of defence planning system was (and is) the solution to this situation.

The Development of the Defence Planning System and its Current Shortcomings

Structural shortcomings: The committees of the Parliament regularly discuss, analyse and assess the political factors that concern state security, the foreign- and internal political, social, economic and military circumstances of defence, and formulate their standpoint. In their activity one can criticise the level of complexity and methodological working, and also their military and defence economic qualifications. The economic committees have responsibilities and rights only concerning some elements of security policy. Since the elements of security depend on each other, complex assessment would be needed, but its structural frameworks do not exist either in the Parliament or in the government.

In the Hungarian context, no apparatus to co-ordinate the defence-related questions exists. (Unfortunately, the Defence Committee of the Parliament is not able to do so). The importance of coordination can be followed up through several international examples (the United States' national security advisor, the national security council in Germany, and the military cabinets operating in several other countries). The current structures in Hungary lack the necessary full responsibility and authority; therefore, there isn't a complex analysing process in the field of security policy.

The problems of economic activity: The economic activity is quite exposed, because Hungary does not have a law on economic activity beside the State Finance Act on budgetary activity; moreover, analyses of potential economic outcomes do not occur.

Lack of coordinating activity: The plan of the annual budget, which is the basis for state planning, primarily prefers the financial aspects instead of contracted

economic assessments. The ministry of finance, which is responsible for bringing the annual budget together, is not capable of such a complex assessment. The lack of coordinating activity at the apparatus level leads to the dominance of political interests at the ministerial and parliamentary level, leading in some cases to biased and unprofessional products. This is explicitly shown by the regular modifications of the accepted plans and measures. The internal structure of the annual budget of the Hungarian ministry of defence has been modified four times since the regime change, which makes periodic comparative analysis impossible.

Lack of cost view: The annual planning is concentrating on assuring the balance of expenses and central sources, so it is based on the expense-related judgements, not on costs. Basing on costs would require task-centric analyses and planning. Several countries have already successfully used those planning methods (zero-base planning, program budgets, separating standard keeping and improving expenses), which represent the methodological basis of the former. This practice makes the detailed analyses of tasks unavoidable, in contrast to contemporary methods.

The examination of the past and the current problems urges the establishment of such a military-economic planning system, which more precisely reflects the security political goals and economic capabilities. The renewal of defence planning system is unavoidable; Hungary needs a totally new system, which according to the standardized and program tasks prepares short-, mid- and long-term plans, plus during the feedback controls the realisation and efficiency of these plans.

In sum, the following factors demanded the development of DPS:

- Because of the Soviet dominance, Hungary did not have its own defence planning based on the security policy of an independent, sovereign state;
- The ad-hoc annual planning used since the change of regime could not give a suitable economic basis for the planning of longer term defence tasks;
- The budget of the Hungarian Armed Forces decreased by 50% in real terms between 1990 and 1996. This smaller budget required a reassessment of defence tasks and performances, the reduction and restructuring of order of battle, and the working out of mid- and long-term development plans;
- Hungary need to accept programs covering several years in the field of the development of military equipment;
- Civilian control requires increased transparency;
- The expectations to introduce task-oriented planning;
- To create the possibility of cost-result analyses; and,
- To conform to the budget-reform and NATO planning system.

The Defence Planning System

The top military leadership and the experts thought that the solution to the problems was the development in the middle of 1990s of the Defence Planning System. DPS is the complex planning system of the military, which contains the defence political

goals, the military tasks derived from the former (development of the military, international obligations, improvement of combat readiness, training, mobilisation, recruitment, etc.), as well as the economic plans ensuring their material (material-technical and financial) and human resources.

The defence planning can be divided into governmental and ministerial tasks:

- DPS at governmental level defines, according to the security political goals, the requirements towards defence of homeland and other defence tasks;
- DPS at ministerial level is based on defence requirements, which are derived from the security policy, approved by the political leadership and are updated to the given period.

DPS at this level gives in detail (to a certain period) the goals of the structural and technical development of the military, the personnel and its ratios, and according to these, the necessary budgetary funds of main procurements, development and maintenance. To form these elements is the task of military-economic planning. The economic content of DPS is to harmonise military needs and economic realities, and to have them approved by political, military and economic planning and decision-making bodies.

DPS brings the military requirements together, analyses the available economic tools, and feeds these back to those who set the military and security political demands, and this way produces the real, co-ordinated plans of possibilities and requirements. DPS mediates the budgetary effects of direct military expenses towards the national economy.

DPS is an integral part of state planning system. In its closed process it includes:

- The military and economic planning;
- The coordination of plans and their approval; and,
- The system of use and accounting.

The DPS, under development, brings together into a single integrating system:

- The defence strategy;
- Operational use and training;
- The defence budget and the necessary resources of military maintenance and development; and,
- The planning systems of the functional tasks of the military.

DPS can be divided into subsystems and parts:

- Strategic Planning System;

- Operational Planning System;
- Resource Planning System;
- Budgetary Planning System.

Strategic Planning System (SPS)

The main task of the Strategic Planning System (SPS) is to formulate and update long-term programs and mid-term plans on the capabilities and structure of a future military, taking into account the current status of armed forces, the basic defence documents and potential threats. It also has to formulate the needs of strategic resources.

This subsystem also deals with the comprehensive analyses and assessment of long-term processes of economic conditions and their interaction, as well as the elaboration and approval of economic strategy of defence.

Concerning the capabilities of the future military and their economic circumstances, long-term programs (15 years) and midterm plans (one-four years) are prepared every year, and these programs and plans are regularly updated, completed and corrected at planning cycles.

This system gives principles and information to defence policy and to the definition of the structure of the military, the tasks of commanding, executive, supporting elements and the co-ordinated directions of development.

Operational Planning System (OPS)

Under the Operational Planning System (OPS), the main goal is to develop, modify, and prepare the training plans of the existing forces, to define the peacetime and emergency requirements and tasks o f the military, and to sum up the operational needs for the realisation.

The planning system of the application of the military has as its main task to determine the requirements of the armed forces in peace and wartime, and to work out and update engagement plans. The plans of Hungary's armed defence contain the use of the Hungarian Armed Forces and Border Guard in case of emergency situation and unexpected aggression, the requirements of civil defence and national economy, and the process to put on alert the secured command and control system.

According to the status of the army, this system gives data and lays down demands to maintain operational-tactical capabilities, to prepare the military for combat contingencies, and to the operational priorities of military development.

The planning system of preparation and training. Its task is the strategic and operational preparation of the military, to fix the guidelines, requirements and tasks of the training of troops, to plan the strategic-operational training of the military leadership, the commanders and staffs, to plan the most considerable operational-tactical exercises, to define the training system of reservists and the mobilisation plans, and to sum up operational demands as regards the training of the forces.

The system provides data, sets requirements and needs concerning the planning of needs and costs of human, logistic and other normative resources necessary for the realisation of preparation and training plans and tasks.

Resource Planning System (RPS)

The Resource Planning System (RPS includes the definition of planning goals and resource limits, the task-oriented planning of programmable development and normative functional-maintenance needs, the preparation for and approval of decisions on source allocation and the finalisation of resource and cost plans of the ministry after the approval of budgetary estimates.

Planning system of programmed resource needs. In this system one can primarily find programs on the main, unique and one-time tasks of the army, more precisely on the human resources, the development and procurement of equipment, and infrastructure investments.

The government approved as program financing the NATO Partnership for Peace program and the support of social organisations. It is expedient to enlist here the programs meant for realising NATO's military development goals.

According to their planning and realisation, one can distinguish:

- human programs;
- programs on development and procurement of military equipment;
- construction programs; and,
- communication programs.

These programs can be top priority, goal or other investment programs according to their importance, classification, and planned costs. The system provides data for the planning, co-ordination and approval of strategic-operational needs, including those of the NATO's military development goals, as well as for the planning of normative resource demands and the budget.

Planning system of normative resource demands. It plans the resource demands and costs of human, logistics and other (medical, intelligence, media, etc.) sections needed for the preparation, functioning and maintenance of the military.

Planning is carried out centrally. This system supplies data for corrections of operational-tactical demands, for the maintenance and development of resources, and for the planning of the budget.

Budget Planning System (BPS)

Within the context of the Budget Planning System (BPS), the military's budgetary organisations carry out their economic activity according to their approved annual budget, abiding by the conditions set in the relating rules. Military organisations, under

the budgetary article of ministry of defence, plan their resource demands (which are the basis for their budgetary estimates) in line with these conditions.

The basing of budgetary estimates goes on with the calculation, then the planning of resources and their costs, which guarantees on one hand better and more convincing information for the government and the parliament and on the other hand, the changes in the original tasks and estimates can be minimised during the legislative work.

The elaboration of the budget of MoD, the settlement of annual (2+ years) budgetary estimates can be divided into two parts during the budgetary planning process: the directive and the legislative part (these parts are clearly defined in the state planning system as well).

The directive section coincides with the planning process of resources, the task-oriented calculation of the resources and their costs, the preparations of decisions, and the approval of resource and cost needs at the ministry level. These task-oriented resource and cost demands of the separate military organisations are put together as the demands of the general staff, and then these needs are summarised in the needs of the ministry and are prepared for decision.

The top leadership of the MoD discusses the resource and cost needs of the military and according to military-economic assessments and the preliminary guidelines of the central budget, it decides on the planned estimates of development programs, top priority tasks, operation and maintenance.

According to these resolutions, the minister of defence submits with written explanation the proposal on the main guidelines of defence-economic policy and the main figures of the budget of MoD meant for the next year (+2 years) to the minister of finance. Later, in the legislative period, the minister of defence, in line with the state rules and the budgetary guidelines, submits the proposal on the budget of the section under its control.

It is vital for the approval of the budgetary estimates that the relating professional bills must be presented to the Parliament before the budgetary bill, and these bills should be approved until that point of the negotiation process of the budgetary bill so that the effects of the professional bills on the estimates can be enforceable in the budgetary law.

In the process of planning, the minister of finance, according to the resolution of the government, regulates in decree the instructions on the planning of annual budget.

The minister of defence issues its budgetary planning measure, which:

- Defines the general and obligatory planning requirements, methodology and instructions;
- Informs about the allocation of incomes and expenses;
- States the necessary changes in the tasks and their conditions;

- Decides on the number and ratios of personnel necessary for economical functioning and optimal realisation of the tasks, and on the way of operating and maintaining the system;
- Lays down the methods how to calculate in the planned guiding numbers the changes of estimates in the current year; and,
- Regulates the regrouping of tasks and the related estimates of the current year between the budgetary organisations.

The mid-level controlling organisations put together the budgetary proposals of the budgetary organisations with full and part rights, based on the head figures of the ministry and the resource and cost plans. These proposals include all of the expenses and incomes, which:

a. Irrespective of their sources, are in connection with the tasks and activities of the given organisation and:
    - are based on provisions of law, commitments of contract or agreement;
    - according to experiences, come up regularly; and
    - can be expected incidentally.
b. Are in connection with the operation and utilisation of their resources;
c. Represent a chapter-handling fund of a high priority task approved by the parliament, the government and defined by the minister of defence and the chief of general staff.

The budgetary plans and proposals of the budgetary organisations are prepared according to the structure of elementary budget (order of sides of account and items); in the plans the estimates are separated as normal and extra (non-recurring) estimates.

The Defence Procurement System

Defence procurements, similar to the planning processes for defence spending and the military-economic control mechanisms, have their own specialities compared to other state procurements. The reasons for this include the national security and classification questions of procurements the special characteristics of the procured goods, services; the requirements towards the partners who are able to sell; the number of suppliers is relatively low; the frequent urgency for particular procurements; the maintenance of secured industrial capacities; the defence of national market; the length of procurements (several years) and their huge value; and the specialised procurement methods (e.g., offset).

All of these reasons required a special regulation on defence procurements, different from the state procurements. This primarily means exemption from the Act on Public Procurement, which can be given by the competent committee of the parliament in case of procurement of military hardware or classified procurement. On the other hand, the procurement rules of the ministry also reflect the specialities.

With the new government in 1998, the new leadership of the MoD required a top-level permission and decision method on the whole spectrum of procurement activity of the ministry. At the beginning, the defence minister made every decision, but within one year, a ministerial directive (47/1999) created a four-tiered (head of department, deputy state secretary, state secretary, minister) decision-making hierarchy; however, the over-hierarchical character of ruling system hampered the realisation of a routine, smooth procurement policy. After 2000, both the leadership and the those with day-to-day responsibility for procurement required a procurement 'manual', which resulted in the issue of an exact ruling system.

The biggest disadvantage of the MoD directive of issued in 2001 was that the procurement system did not represent a uniformly transparent process; consequently it was not possible to plan in advance military procurements. Even in the case of procurements in connection with bigger developments, several organisations acted independently, so the common process system of planning, procurement and putting into service was not formed.

Because of systemic redundancies, the number of actual procurement procedures was over-proportioned, which meant a considerable waste of ministerial human and financial resources. The executive organisations did not have enough experienced legal experts, therefore there were many procedural irregularities and the number of legal remedies was too high. All in all, the intention of the government to have legal and transparent procurements failed.

The experiences of these years demanded the revision of ministerial directives and the formation of a uniformed structure of procurements. At the same time, the public procurement system changed because of the expectations of the EU, which also had compatibility demands towards defence procurements. The harmony had to be created between the procurement system and the results of defence revision of the whole military, the guidelines of the new act on public procurements, and the complex economic activity of MoD.

The process of creating new procurement procedures. In July 2003, the Defence Ministry's administrative state secretary initiated a planning and codification work with the inclusion of several organisations. The main goal of this work was to review the procurement procedures of the military and to prepare the legal rulings (in line with the new act on public procurements, which was also under work at that time) for the creation of a uniformed process of all types of procurement. It was also a task to be able to review the military procurement procedures from the coming up of planning needs, through the realisation of the procedures until the fulfilment of the contracts.

The forming of a unified legal procedure of procurements required the elaboration of a new procurement directive and a guide to help the defence executive to work). All this was meant to have legal, efficient and transparent military procurements. To have the new procurement directive, it was obligatory to outline the conception of the procurement system. The representatives of planning, executive and ruling organisations of the centralised economic activity of the ministry all participated in creating this concept.

During the codification work, it was stated that the military procurements are realised in the frames of a combined process, therefore it was necessary to elaborate a complex procurement system that conformed to legal guidelines.

The authors agreed that the new procurement system must be:

- Simple for the sake of manageability;
- Transparent for the sake of easier decision mechanism;
- Flexible, so that the procurements should be realised for the really necessary deadlines;
- In conformity with legal conditions;
- Unambiguous, excluding contradictions and misinterpretations;
- Universal including all the types of military procurements;
- Efficient enough to not slow down the procedures; and
- Economical, avoiding the extra use of human and material resources.

According to these above-mentioned guidelines, the following strategic steps of creating the new procurement system were defined:

- The mode of drafting of needs has to be defined;
- The process to pass the needs to the decision makers has to be established;
- The plans must be co-ordinated;
- The areas of responsibilities must be clearly and punctually given;
- The competence of those who have right to decide has to be defined;
- The system and responsibilities of countersigning of the procurements must be worked out;
- The tasks of internal control must be carried out;
- The record system of contracts has to be elaborated; and,
- The way of the realisation of procedures not included in the plans has to be regulated.

However, it was vital to divide into its components the units and procedures of the economic-procurement activities of the military, therefore those persons and organisations that played any kind of role in the procurements also had to be punctually defined. Consequently, it was clear during the planning work that the incumbent directive of the MoD (9/1998) on the system of central and institutional economic activity had to be revised and re-regulated, too.

The New Procurement Procedures. The new procurement procedures of the military were finally regulated by the MoD directive number 89/2004. This directive invalidated the former directive on procurement procedures (53/2001), but kept in force the directive on developments in infrastructure and procurements of ensuring accommodation (56/2001). Consequently, the regulation on the military procurements

stayed double. In this part I want to show the modifications introduced by the 89/2004 directive.

While the personal effect of the directive is equal with the former one, in its material effect the exemption on infrastructure investments is completed by the procurements carried out in the frames of NATO's security investment programme (NSIP).

This directive also contains many lengthy explanatory dispositions, but its whole length does not exceed the former. This shows that there was not a change of conception in the modification of internal regulations, and the detailed ruling was not completed by particular rules on details. The most visible modification of explanatory dispositions is the definition of the terms Preliminary Annual Procurement Plan and Annual Procurement Plan, which forecasts the appearance of an important new element of regulations.

The directive distinguishes the centralised procurements, decisive from the point of view of the economic activity of the military and the procurements realised on the account of institutional budgetary estimate. In both cases, the affected organisational circle stays actually the same, but the authority of the Procurement Office of MoD concerning the centralised procurements decreased from the former 50 million HUF limit to the half of the national public procurement limit of value (thus reducing the authorities of central supply organisations). In case of procurements realised on the account of institutional budgetary estimate, the situation is the same: above the limit the Procurement Office, under the limit the military organisation is entitled, while those organisations of the military that possess a special economic activity (e.g., the Military Intelligence Office, the National Defence University, and the stand-alone ministerial offices) may carry out procurement to the debit of their approved budgets on their own, irrespective of the value limits.

The directive defines the tasks and authorities of the Procurement Office, the top-level organisation of economic activity (that is the Joint Logistic and Support Command), and the central supply organisations. It is a new phenomenon that special departments adequately represent the aspects of environmental protection and safety-at-work rules during the procurement procedures.

A new element of the regulations is the development of procurement plans. The Preliminary Annual Procurement Plan is put together before the approval of the defence budget. After budget approval, the defence minister signs the Annual Procurement Plan, containing any necessary modifications. Its role is to simplify the procedure of permission, because those procurements, which are in the approved plan, can be started without separate permission. This special permission is needed only if the procurement procedure is not included in the annual plan, or it is started with modified parameters.

The directive separately regulates the procedures under the effect of the new public procurement act, and those not under it. In the first case, it privileges the open procedure and enlists in detail the information and declarations the order has to contain. The realisation of centralised procurement is regulated in this same part, but only a narrower, more concentrated circle is entitled to start centralised procurement: the

MoD's Procurement Office, the MoD's Real Estate Handling Office, and the organisations under the direct command and control of the defence minister.

In the case of procurements not under affected by the public procurement act, the directive relates to governmental directives on special defence procurements, and regulates the use of these directives, excluding the rules of the public procurement act. The directive also deals with the countersigning and recording procedures of the procurements. The new system entered into force only in the fall of 2004, a little late.

The Economic Controlling of Defence Spending

The main tool of complex, integrated, result-oriented accounting of the fulfilment of tasks is the well-organised, independent and continuous controlling activity, which is directly subordinated to the top leadership.

This activity, with the expedient and intensive observation of the realisation of plans, the analyses of experiences, then with the elaboration of decision alternatives, could make the dynamics of preparing and carrying out of the plans visible. By reflecting each part of the processes, it could discover the movement of planning data, thus helping the judgements of the leaders about their justification and expediency. With the pure fact of constant professional 'X-raying', it could deter the initiatives of such moves that are contradictory to the goals of the armed forces.

Controlling, with the help of watching the planned and unplanned processes, the presentation of their effects to the leadership, and elaboration of decision alternatives, could guarantee that the leaders' will for the realisation of the tasks are professionally grounded. The professional content of controlling is the systematised group of those questions, which are in connection with observing, collecting, analysing and proposing work. These questions include the primary processes of the military, administrative and economic tasks of the ministry, which need to be prepared for the leadership before decisions.

The controlling processes of defence expenditures can be divided into two sharp areas: economic and military controlling. The economic controlling can be examined in the fields of economic tasks of maintaining and operating the military; economic tasks of military development; and allocation of resources and costs.

Economic tasks of maintaining and operating the military examines the organization, fulfilment, and analysis, of the military supply, technical and medical materials and services. The analyses and assessment of processes of planning, procurement, storing, supplying, scrapping, bringing into service, withdrawing and handling the incurrence includes:

- Watching and assessing the planning and allocation of the task-oriented resources of the logistic supporting tasks. According to the central guidelines, the realisation of the task and resource based prioritisation in the planning.
- According to the allocation of sources, the realisation of prioritised task-based financing.

- The harmonization of tasks of logistic support with the training and engagement tasks, the latter's completeness in logistic plans; the reality and financial conditions of plans.
- The confirmation of material and economic plans of logistic support with correct, professional calculations, and the alignment of source allocation with this.
- The harmonization of logistic support plans and their conformity with the plans and alignment with the other material supply systems.
- The conformity of the tasks of operation and maintenance with the same directed needs of development tasks.
- How the use of logistic sources ensured the realisation of tasks, the fulfilment of capabilities, goals. How the deleted or delayed tasks due to the lack of sources affected the capabilities.
- The status and rationalisation of supply of military organisations with real estate.
- The status and efficiency of running and maintaining of real properties.
- The existence, up-to-date status and accuracy of analytic record system of realties and their operation.
- The use of task-based resource planning in connection with the running of realties, and according to this, the realisation of prioritised allocation of sources.
- The status, legal aspects and efficiency of tasks of military environmental protection. The relation of environmental protection and pollution processes.
- The functioning and results of sectional tasks of national environmental protection programs.
- The functioning status, completeness and realised advantages of informational system of environmental protection.
- How the use of infrastructure ensured the realisation of tasks, the fulfilment of capability goals. How the deleted or delayed tasks due to the lack of sources affected the capabilities.

Economic Tasks of Military Development

- The realisation of complexity, completeness, task-orientation, and prioritisation of organising into programs the tasks of military development. The existence of life cycle calculations used for preparations of decision, and their role in decision-making.
- The existence, completeness (task + resource + costs + timing), harmony of documentations of program plans of programs of military development; the balance and optimisation of the resources and financial sources.
- Laying the documentary foundation of the program plans with the help of complete and professional calculations.
- Creating the harmony between the source conditions and the professional needs and timing of realisation of programmes.

- Breaking down programme plans in the short-term and procurement plans.
- Assessing how much the allocated natural resources and financial sources were satisfactory for the realisation of programmes and expected capabilities.
- What kinds of programmes were rescheduled, stopped, partly or totally deleted, and how the realisation of the planned capabilities was affected.
- The effects of interim changes in central concepts on the realisation of programmes, and whether the plans were modified or updated.
- The proportional and complete appearance of the above-mentioned changes of programmes in the allocation of sources.
- The harmony of allocated sources of the current year with the size of the programmes, the proportional, efficient and economical use of sources as well as the planned and actual costs and the reason and consequence of differences.
- The reasons and consequences of appearance of tasks not included in the plan, their handling, and the allocation of additional sources (for the planning of tasks, the use of outside sources, and the internal redistribution of sources).
- The effect of resource deprivation on the realisation of tasks, capability requirements, and the way of handling of the resource reduction.
- The accounting of tasks, resources and costs to realise the programmes, and comparing analyses of accounting data.
- The origin of losses in task realisation, its effects on the tasks and the costs. The calculations of planning, realising, task changing, procurements, losses.
- Accounting for year-end budgetary and outlining the justification and origin of the surplus. The appropriate use of re-allocated surpluses of former year. The justification of due differences.

Allocation of Resources and Costs refers to:

- The justification, completeness and confirmation of planned resource and cost needs of realisation of tasks; the reality of resource and cost needs compared to the tasks; the harmonization of resource and cost needs with capability requirements; and the harmonization of planned and allocable resources, costs, the handling of extra resource need.
- The allocation of resources and cost needs in the proportions of tasks, the follow-up of changes of tasks with the changes of allocations, the representation of effects of changes in resources and costs in the changing of tasks.
- The handling of under or over planned resource and cost needs in the plans, the regrouping of missing or surplus resources and costs. The task-based realisation of modified allocation of resources and costs.
- The harmonization of schedule of demanding the resources and costs with the schedule of professional realisation of tasks.
- The conformity of procurement of planned resources with the allocated financial sources, the harmony of its schedule with the requirements of realising the tasks.

- The justification, task-orientation of regroupings of resources and costs, and their effects on the capability requirements, the correlations among the mistakes of planning, the reasons of regroupings, the modification of central concepts, and the changes of source conditions.

The existence of an effective, competent controlling organisation with the necessary amount and quality of information and experts is of course the principal necessary precondition to allow for the effective examining of all these fields.

Summary

The use of DPS may result in the establishment of a modern, efficient, military-economic planning system with the necessary civil control. However, the primacy of procedures inherent within the structure must be stressed.

During development of a defence planning system, the procedure has to be created as a first step, which should be followed by the shaping of institutional structure. Past and recent changes prove that competent people seem to forget the economic planning and system view and they rather think in force planning.

In my opinion, DPS is a well-established, efficient system. Of course, it must be updated in response to conditions that may change daily, but irrespective of this, it would function more efficiently than the current processes. The necessity of its introduction cannot be questioned today. Beside other reasons, the required interoperability with the unified defence planning of the Alliance, the efficient management of defence spending, the political intentions to ensure transparency of defence budget, as the most important reasons, all demand the use of DPS. However, DPS is heavily criticised right now, at the final stage of its introduction, before its test. I do not want to deal with those critics, but I can state positively that not all of them are rightful and professional. The changed political environment, constantly changing rules, and the requirements of NATO membership all represent challenges to DPS, but it is flexible enough to handle these.

This system is the result of long work of many contributors, and according to British experts, it can be an example for many NATO members. It is a cornerstone of our successful cooperation with NATO as to how we can fulfil the alliance planning requirements. With a well-functioning system, filling out DPQ will not be a problem. DPS is the base of well-functioning defence procurement and controlling systems, which guarantee the efficient use of sources after the cautious planning of the budget. With the new DPS, we hesitate at a threshold, but we should cross this threshold, which would mean a qualitative jump in the defence sector. If we do it, we can set a good example. If not, we will be forced by circumstances and our allies to do it in some years' time. But in this case we can only lag behind the others, as we sometimes did it in the past.

Chapter 11

Arrangements to Ensure Good Neighbourly Relations in Defence and Security Matters

Dr. Pál Dunay

Introduction

Social sciences, or as it is called in some parts of the world, the art works with ill-defined categories. If somebody takes a look at the title of this chapter he can conclude that it has lived up to the average work of social sciences. There is significant ambiguity surrounding most constituent categories of the title above. Consequently, it is necessary to introduce the topic before one can dive into the select issues it entails.

Defence, and security more broadly have traditionally been state matters or sovereign prerogatives. Matters which were decided by the sovereign, be it the king, some other type of non-elected leader (dictator) or the legislature. This would indicate that states have traditionally taken such decisions independent of others. There is one major problem with this approach, however. Namely, if decisions on defence and security are taken arbitrarily without effectively contemplating the interests of other actors, in the process of maximising its own security, a state may will deprive other actors of theirs. That is why it is impossible to maximise the security of one state without effectively minimizing the security of others. It is one of the reasons why security and defence have become subjects of international concern. It is another one that security, as a part of international relations, is to be guaranteed vis-à-vis other actors of international relations. They are most often states or their coalitions (alliances). This fact is not undermined by the recently increasing role of non-state actors in international security. A balance has to be found between the security interests of various actors. If this fails security cannot be guaranteed, as some actors will feel insecure and attempt to change disadvantageous power relations.

It is most often the changing interests and power relations of states that result in changes of the status quo. It is the pre-eminent interest of states to retain the status quo at a certain instance. Later, they will however lose their interest in the status quo and aim to revise it. Hence, the status quo is not static. States make efforts to provide for stability in the international system, guarantee their own security and benefit from

predictability. They do not want to be exposed to unexpected power shifts. They have a variety of means at their disposal to influence their situation. Some of them are unilateral, and some can be applied in concord with others. National defence, or more broadly the means at the disposal of the state, belongs to the former. Any kind of cooperative activity belongs to the latter. This can range from temporary to more lasting arrangements. Each of them serve to preserve the status quo or, if possible, to achieve its favourable change.

Security is not an objective (or for that matter measurable) category. Human beings contemplate reality and thus security represents a dilemma based on subjective perception. It is a fortunate situation when the two (objective reality and perception) are separated by a narrow margin only. Although this is sometimes the case, more often than not, there is a gap between the two. The gap should not be perceived as a philosophical category. It is not a fact which political and military establishments notice and register without reflecting upon. The perceived security gap is the decisive force for change. If a country perceives inferiority in relation to other states and interprets that it could be compensated for, then it would act accordingly. It will reallocate resources to provide for its own security. Interestingly, the perception of superiority may also drive action, partly to seize the moment and consolidate it by using military means, unilaterally or cooperatively.

Decisions on military security have a certain time span from the emergence of the matter to implementation. This means that no country is in the position to influence its own security situation with immediate effect either unilaterally or in cooperation with other states. The longer the time span to influence the security situation, the more anxious states become to be on the safe side when deciding on security and defence. This is one of the fundamental dilemmas every government faces when it elaborates its national security plans. It assumes that a potential rival or hostile enemy may turn its superiority into military advantage faster than it could react to it. This is the reason why states allocate major resources to prepare to react to hostile acts. That is why they keep manpower prepared to fight unlikely contingencies and accumulate weaponry for the same purpose. Intelligence (both civilian and military) and other clandestine means serve partly for the purpose to expand this, as they increase advance warning time. Some cooperative measures that increase transparency have the same effect. It has been a generally recognized rule that it takes longer to develop and put into service a more sophisticated weapon system than a simple one. It is enough to compare a sward with an intercontinental ballistic missile to draw this conclusion.

Preparation to react to a potential military threat may be necessary before it actually emerges or could be identified with sufficient precision. Hence, states need to decide under the condition of shortage of information and for the long run. This makes it extremely difficult to decide and makes it even more difficult to gain popular support for some of these decisions. Traditionally an environment where the perceived threat level is high is more conducive to taking decisions in favour of providing for, and allocating resources to, national security unilaterally than a largely threat-free environment. The former does not guarantee, however, that adequate decisions are taken. It just helps pass them with popular support. Even though we have heard a lot about 'capabilities based armed forces' over the past decade, or more broadly since the

end of the Cold War, the idea has not come to fruition. The United States which had most actively propagated the idea has largely given it up after 11 September when it had to concentrate resources to counter actual, rather than potential threats. Furthermore, one has to take into account that the United States is the prominent military power of the world that allocates more money to defence than the next ten states of the world together and operates on a full spectrum of military options. If capabilities, rather than threat based armed forces fail to represent an option for the U.S. then how could this be realistic for countries that neither have the resources to develop capabilities on the full spectrum, nor have the popular support to allocate resources to defence purposes at the expense of significantly reducing costs elsewhere.

Every state without exception carries out its defence programmes under severe resource constraints. Financial ones are the most obvious among them. Hence, states have to set the priorities where they allocate resources. The allocation of resources for defence is among the most delicate ones. Let me mention three reasons for this here. 1) As was mentioned above, decisions on national defence are based on judgements as far as the long-term evolution of the threat – or the international environment more generally. If it is predicted correctly, then adequate resources should be assigned to defence purposes. 2) Due to the secrecy that continues to surround defence decisions it is difficult to subject many (though not all) of them to proper democratic political control. Experience shows that legislative bodies continue to face problems when trying to contemplate the pros and cons of one decision or the other put forward by the executive. 3) In a low-threat level environment support for defence is low whereas in a high-threat level environment it is high. Hence, support for defence depends on public perception rather than any kind of rationality. It is dependent among others upon that perception whether the defence portfolio has a good bargaining position to attract resources vis-à-vis other priorities of society or not.

The above presentation of the role of defence and the military is intentionally one-sided. It gives the impression as if armed forces were separated from each other on a national basis. There they look like means of a realist political agenda, instruments of state policy fighting for influence against rival states, which international relations theorists would take. Their cooperation is sparse except for coalescing against another state or coalition of countries. The world has changed fundamentally, however, since the time when such a characterization of defence and armed forces could hold water.

The Cold War has brought about several major changes as far as international relations. The structure of international affairs became bipolar where, particularly in international military affairs, two players held decisive roles. Their relationship defined the agenda for most other actors of the international system. It stems from this that the Cold War was a global system where countries faced enormous difficulties if they did not align themselves with one party or the other. There was no 'third way'.[1] The rivalry of the two main protagonists and the alliances they led resulted in ignorance as far as other conflict forms in the international system. The East-West conflict determined the system and its dynamics shaped it. The dominance of that conflict was so strong that

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[1] It is sufficient to mention Iran after the 1979 Revolution as an attempt not to be integrated on either side of the divide.

other endemic conflict causes had little chance to come to the surface.[2] Although the conflict was comprehensive its core was military. That was the only area where the competition of the two parties could nearly outlast the whole Cold War era. The fact that the conflict despite its comprehensive character centred upon military matters meant those means, which were there to mitigate it, also had to be directly linked to the military aspect of the conflict. That is how arms control, in all its aspects, was an integral element of the conflict. There was another less apparent aspect of the Cold War. Namely use of force was extremely critically assessed whenever it carried the risk of spiralling out of control either geographically or resulting in the use of weapons of mass destruction. Hence, the use of force remained limited to contingencies, which did not carry the threat of uncontrolled escalation. After the Cuban missile crisis of 1962 it had to remain confined to wars by proxies with a thoroughly controlled escalation potential and, just in case, direct reassurance through direct communication. Regionalism and neighbourly relations were overshadowed by the East-West divide. Regional relations could only exceptionally play a role and had to remain secondary to the systemic conflict and alignment according to the logic of the Cold War.

The short presentation of the foundations of the Cold War was necessary to juxtapose the post-Cold War order to it. It is certainly more difficult to draw a final conclusion for a 'project in progress'. It is furthermore open to question whether the so-called post-Cold War era still lasts or whether it has given way to a new era that started with the terrorist attacks of 9/11. With the end of bipolarity a new system has emerged where unipolarity coexists with multipolarity and with elements of a non-polar cooperative structure. In the process the U.S. has emerged as the leading power due first of all to the complex power base upon which it relies. This entails military superiority, more than twenty per cent of the world economy and a liberal democratic model to follow. The model promoted by the U.S. and many of its powerful allies is liberal democracy. The number of democracies is increasing in the world and democratic ideals are spreading. The prominence of the U.S. is apparent in defence with its unique ability to conduct large-scale high intensity military operations. In other areas, like the weight in the world economy, the international system shows more signs of multipolarity in the long run. Among the sources of power there is no unanimity about the use of force. It has been used in various contingencies. Most wars of the post-Cold War era have been domestic and among the inter-state ones there is an increasing number of contingencies where force is used in interstate relations for coercive purposes. The international system is institutionalized, although in areas other than security international organizations are better established. Regionalism has flourished since the end of the Cold War and 'high' political and security issues, like foreign policy and defence are increasingly on the agenda of regional institutions. Countries in the vicinity of one another or adjacent to each other have noticed how artificial the

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[2]   This is how conflicts with genuine causes other than being corollaries of the East-West conflict were addressed as parts of the decisive conflict. It is sufficient to mention the Arab-Israeli conflict throughout the 1960, 70s and 80s. For other conflict causes and the neglect with which they were addressed during the Cold War see the seminal work of Dieter Seghaas, *Konflikformationen im internationalen System* (Frankfurt a. M.: Suhrkamp , 1988).

Cold War divide had been and started to re-establish contacts once severed by it. Tendencies of regionalism and regional integration have been noticeable not only in Europe but also elsewhere where some (though by far not all) of the European processes are emulated.[3]

The dominant powers of the post-Cold War world are democracies. The dominant features of the international system are (economic) interdependence and cooperation despite the variance of their role in different regions. The dominant features of the system have a decisive influence on its subsystems. Hence, international security is also dominated by cooperation. The role of armed forces has changed. Armed forces continue to fulfil their classical role as providers of national security. In many cases this does not require particular effort. It is not only North America and the largest part of Europe where armed forces have increasingly acquired new functions. It is a feature just as well known in large parts of Latin America and Asia. Armed forces have become security providers and should contribute to the common good globally or regionally. It is open to question whether this function can gain sufficient legitimacy in society. It can be taken for granted that the public shows understanding to the contribution of the armed forces to the projection of stability. It is somewhat less certain whether the support holds when the resources allocated to this purpose are measured against other priorities of society. It is also questionable whether the same positive attitude prevails when armed forces suffer casualties in order to contribute to the common good.

Security studies have often argued that security cannot be confined to military matters exclusively. This stance is particularly relevant when the situation varies greatly from country to country as far as the contribution of the military to security. It has become common sense that security has different aspects (military, economic, ecological etc.).[4] That is how security has become a broad, borderless if not all-embracing category. Experts have called attention to the dangers of such an approach (e.g. the so-called securitization debate). There is consensus in the security community that security cannot be confined to military matters. There is no consensus, however, as far as the relative weight of different composite elements of security.

The framework of analysis should address instruments that make effective international cooperation possible and contribute to good neighbourly relations in security and defence. It is the underlying assumption of this chapter that security and defence have become part of a cooperative international framework. A broad array of means contribute to them. An attempt to categorize them could result in the following. The difference between regional cooperation and bilateral arrangements is in the number of actors. Whereas regional cooperation is always multilateral, connecting the activity of at least three states, arrangements of good neighbourly cooperation are usually limited to two countries. They can vary as far as the level of ambition and the

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3   Although this is most visible in the European Union where CFSP and even more ESDP have developed in a short period of time it is not confined to it. The African Union, ECOMOG, MERCOSUR and ASEAN ARF show similar signs of tending toward high politics and regional defence issues.

4   See Barry Buzan, *People, States and Fear: The National Security Problem in International Relations* (Sussex: Wheatsheaf Books Ltd, 1983).

time frame. States may establish ad hoc arrangements of a legally binding or non-binding character. It may extend to various activities ranging from information exchange to mutual visits to the cooperation of the militaries ranging from joint exercises to the common acquisition of weapon systems to their common development and production. These are temporary forms of cooperation. Lasting cooperation can also take different forms, from temporary coalitions to permanent alliances. It has to be noted already here however, that there are very few permanent multilateral alliances. It is a consequence of that situation that conclusions on alliances are being drawn on the basis of a few cases. This brings the analysis close to the method of mathematical induction. That method is simply not good enough to draw reliable conclusions on alliances.

Beyond the categorisation above, I think there is one more differentiation, which is of prime importance and relevance. Due to the concentration of power in the international system and the eminent need to provide for regional stability in various parts of the world not every regional security cooperation is induced by the parties which are parties to it. There are cooperation frameworks which are 'home grown', initiated by the parties themselves. There are ones, which are induced by external players but later meet the satisfaction of the parties. Last but not least, there are cooperation frameworks, which are imposed upon the parties by the world at large or by one dominant power of the 'cooperative' framework. The triangle of imposed – induced – initiated cooperation is worthy of exploring and may help illustrate why some frameworks are more lasting and successful, while others are fragile and temporary.

It is not of global relevance, rather confined to the Euro-Atlantic area that the West and (formerly) western institutions have made their utmost since the end of the Cold War to establish structures, which include actors not or not yet members of the respective institutions. It has been the most important effort of NATO, the European Union and the Council of Europe over the last fifteen years or so to avoid exclusion and (just as importantly) the perception of exclusion. The underlying assumption of the concept of inclusion is two-fold:

1. Democratic states are peaceful and do not seek conflict resolution by non-peaceful means. Due to their peaceful nature they are stable and in the long-run prosperous. Democracies influence other states in the direction of democracy.

2. States can be best influenced through engagement and not through exclusion. Without an effective engagement strategy their political line would remain unpredictable or at least less predictable than with it.

Most of the policies that the West has developed aimed to establish links between the West and the countries adjacent to it. It has been recognized gradually, however that it is not sufficient to create links between western democracies and the former socialist/communist countries. It is of similar importance to recreate the links between those countries, which once belonged to the sphere of influence of the Soviet Union

and the Warsaw Treaty either as sovereign states or as constituent entities of the former Soviet Union on a new basis. Several attempts have been made to attain this. In each case the effort combined two patterns: socialization and conditionality.

Socialization meant offering a viable model that has demonstrated its advantages and engaging these countries with it, thus teaching these countries how it operates. Engagement was not one-sided, however. Particularly in the early years after the Cold War it also meant that the West acquired privileged channels to learn from its new partners. Bearing in mind how little the West knew about the smaller countries of Eastern Europe this was necessary.

Conditionality meant that the East-central European and Eastern European countries could gain access to the advantages the West had offered if they met certain expectations. Those who did not live up to them were excluded from gaining access to the direct and indirect benefits in the short or medium run. This established differentiation between those who were actively engaging with the West and pursued their future as part of it and those which sought some 'alternative' future.

The West recognized the aspirations of the East and set expectations, which it found to be directly linked to the broadly defined area of security. In an early phase it aimed to suppress conflicts in the region. Among the conflict sources to be suppressed the west identified two prominent ones: territorial rivalries and minority conflicts. They seemed the most destabilizing at that juncture. The outbreak of war in the former Yugoslavia provided the West with further arguments about the correct identification of potential conflict sources. On the other hand, it was far less active in encouraging the countries of East-central Europe to cooperate actively with each other, among others in the field of security. The thinking of the West was so heavily focused on linking its neighbourhood to the western democracies as the centre that it ignored, at least temporarily the intra-regional and bilateral cooperation of the East. This was correct to the extent that there was neither indigenous interest, nor a local resource-base to develop regional and bilateral cooperation in East-central Europe.[5] This has re-established the centre-periphery relations in Europe. It could be familiar to the East-central European nations which had once been members of the Warsaw Treaty. A similar situation seems to be evolving between the countries of the Western Balkans and the EU and NATO.

An analysis of the mainstream frameworks of good neighbourliness and regional cooperation would focus upon those forms, which contribute to form Europe as an integrated continent. It is also necessary to mention briefly the area of the 12 successor states of the Soviet Union. After long hesitation where the region was heading it seems that the Russian Federation has made up its mind and decided to be the epicentre of the empire once ruled by Moscow. It means that under the leadership of the Russian Federation a separate regional entity is evolving to maintain historically based relations. Its area of application is somewhat reduced as those countries which went through revolutions in 2003-4 (Georgia and Ukraine) retain less intensive relations with the others. Russia is thus building a separate regional entity. This is fully

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[5]   Due to the long-lasting cooperation among the constituent republics of the former Soviet Union the conclusions are only partly relevant over there.

understandable in light of the historical togetherness of the countries of the region. It is an interesting and possibly regrettable characteristic of these cooperation frameworks that they bind countries together, which have openly or tacitly curtailed democracy. Moscow as a large power provides 'shelter' to these illiberal, often authoritarian if not outright dictatorial regimes as part of consolidating its influence in the area of 'CIS minus'. It seems that Europe will not unite around the same values and principles for the time being. It would rather be characterized by an 'asymmetrical duopoly'.

There are various factors that determine which institution and which group of countries could effectively influence the course of its neighbourhood and its broader perimeter. There are various factors that determine the situation. Among them the influence of the institution and its members in the region, their determination to use the means at their disposal, the resources available to their carrying out external policy, the appropriate mix of socialization and conditionality. Last but not least, it also plays a role whether the countries to be influenced perceive advantages in following the policy line of the 'centre'. Although each factor listed above is worthy of extensive analysis it is better to illustrate them by examples. I would thus mention only one issue so often misunderstood or misinterpreted. It is the effect of prospect for membership in different institutions. It has often been emphasized that it is a major advantage of the Conference/Organization for Security and Cooperation in Europe that it has comprehensive membership in its region, i.e. every country of Europe participates in it. It has become obvious ever since the end of the East-West conflict and the subsequent aspiration of many countries of the East to join western organizations that countries can be influenced more effectively when they want to join an organization than after their accession. In addition to it, those organizations which have many applicants seeking membership gain more legitimacy through such aspiration than through inclusive membership.

The cases the chapter is going to present are supposed to give some idea about the meaning and instruments of good neighbourly relations in the post-Cold War era. They entail the following: 1) regional/sub-regional arms control, 2) the so-called Stability Pact, 3) the neighbourhood policy of the European Union, and 4) certain aspects of Partnership for Peace.

Regional/Sub-Regional Arms Control as Part of Neighbourhood Policy

Arms control is an instrument that reached its climax during the Cold War era. For two reasons: 1) due to the antagonistic conflict between the main players of the Cold War, including their readiness to rely on military means as a last resort. 2) The level of destruction that could be achieved by using the available military means, including nuclear weapons. Thus, both the intentions and the capabilities prompted the parties to address the military conflict and find tools to limit the means employed. Measures, when introduced in the European framework, extended to the full continent. The end of the Cold War and the changing security needs did not result in a revision of this approach. The participating states, with some variation, continued to elaborate further confidence-building measures for the whole of Europe. The situation changed, however, when measures were introduced to react to the changing threat perception,

namely the emergence of unpredictability in the beginning of the 1990s. The arms control arrangements agreed upon at the end of the war in Bosnia and Herzegovina, which addressed the specific needs of the sub-region, represented a further departure from the concept for elaborating measures for the entire continent. The last major revision of measures adapted to the needs of the entire continent came when the 1999 revision of the document on confidence- and security-building measures (CSBMs) opened the door to introduce sub-regional measures.[6] Since then sub-regional arms control has flourished in Europe in comparison with arms control measures extending to the entire European continent.

Most authors welcome such a development, although they do not address the most important underlying reason of the change and those who do often pay lip service to common sense. One should ask whether European security is indivisible as it is most often stated. There is no easy answer to this question. There are signs that would indicate that European security has an interdependent core, reflected by the fact that any contingency attracts the attention of all the major players on the continent. Whenever there is instability, institutions and states devote time and diplomatic efforts to influence the situation and keep it under control. It is open to question though whether this provides sufficiently convincing evidence to conclude that European security is indeed indivisible. If we choose another approach a different conclusion could be drawn. The large majority of Europeans have experienced undisturbed security since the end of the war in the former Yugoslavia, if not since the end of the Cold War when disregarding the pending conflicts on the periphery of the continent. The perception of, for example, Belgians, Norwegians and Poles is left unaffected by the pending conflict in Nagorno-Karabakh or the continuing violence in Chechnya. Although terrorist attacks colour the picture, and as far as fighting terrorism European security is indivisible. It has to be noted, however, that European security cannot be regarded as being indivisible as far as ongoing regional (sub-regional) contingencies are concerned. In that sense it is necessary to consider that the element of a divisible security posture is also present in Europe.

An Arrangement to Cope with Unpredictability: The Mechanism for Consultation and Co-operation as Regards Unusual Military Activities

A systematic analysis of the threat after the end of the Cold War could point to the fact that either there would be no conflict in Europe, or if there were conflicts, their sources could not be predicted. No one knew who would cause conflict and for what reason. This was the prevailing perception at the end of the Cold War. Hence, the confidence-building measures agreed upon during the Cold War that aimed to reduce the danger of surprise attack and large-scale premeditated offensive action in the East-West context have largely lost their relevance. Mechanisms had to be devised that were flexible

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6   It is difficult to define what 'regional' means. It refers to areas below the European/OSCE level. Formally, the OSCE is a *regional* arrangement under Chapter VIII of the UN Charter. Several arrangements in the geographical area of the OSCE should thus be considered *sub-regional*.

enough to address unpredictable scenarios. A number of mechanisms have been introduced, ranging from the Moscow mechanism that is applicable in case of problems in the human dimension, the Berlin mechanism on consultation and co-operation with regard to emergency situations, and the Vienna mechanism as regards unusual military activities.

The Vienna mechanism is specifically tailored to address less well-defined military contingencies. This is reflected in the definition of the actions that may lead to invoking the mechanism. It can be employed in the case of 'any unusual and unscheduled activities of … military forces outside their normal peacetime locations, which are militarily significant …'.[7] It is clear from the definition that the contingency in which the mechanism can be invoked is intentionally ambiguous. It may be used in cases when the contingency does not even entail an international element, e.g. when a country moves its armed forces, relocating them inside the country. Invoking the mechanism may mean that attention is called to some activity that may indicate the emergence of a military risk that may endanger international security in the long run. The ambiguous definition of the underlying contingency is precisely what the states intended to codify due to unpredictability.

In such a situation any OSCE participating state may request the other state concerning the situation or an unusual activity. The requested state is obliged to answer the request in 48 hours. 'The request and the reply will be transmitted to all other participating States without delay'.[8] Due to the fact that bilateral communications are shared with all other participating states, the process is characterized as 'multi-bilateral'.[9] Following this, if the requesting participating state does not find the reply of the responding state satisfactory the process continues. The requesting party has two choices. It may either ask for a meeting with the responding state or with all OSCE participating states. It is not clear from the text whether it is mandatory to go through the bilateral phase before calling in all participating states. Even though the sequencing of the text (and nothing else) would indicate this requirement, the practice established does not coincide with this interpretation. It is entirely up to the requesting state which option (bilateral or multilateral) it chooses. It should be considered whether the unusual military activity is so severe that this makes invoking the mechanism with the participation of the entire OSCE community necessary or whether holding a bilateral meeting and submitting information to other countries would suffice. The other issue to be considered is whether the immediate petition for a multilateral meeting without the preceding bilateral one would not exhaust the available options and thus deprive the

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[7]   'Vienna Document 1990 of the Negotiation on Confidence- and Security-Building Measures Convened in Accordance with the Relevant Provisions of the Concluding Document of the Vienna Meeting of the Conference on Security and Cooperation in Europe', Vienna, 17 November 1990, in Arie Bloed (ed.), *The Conference on Security and Co-operation in Europe. Analysis and Basic Documents, 1972-1993* (Doordrecht – Boston – London, 1993), pp. 494-495.

[8]   Point 17.1.4 of the Vienna mechanism.

[9]   Victor-Yves Ghébali, *L'OSCE dans l'Europe post-Communiste, 1990-1996. Vers une Identité Paneuropéenne de Sécurité* (Brussels: Bruylant, 1997), p. 42.

requesting party of using gradual steps on the 'escalation ladder' in case further unusual military activity follows.

The Vienna mechanism was invoked only a few times since its inception. It was most often invoked not long after its launch, and it was used again in 1999 under special conditions. It was used very often in 1991 in relation to the war in the former Yugoslavia by Austria, Italy and Hungary. Austria and Italy initiated multilateral meetings whereas Hungary took no notice of this and conducted a bilateral exchange with Belgrade in the Conflict Prevention Centre in Vienna. On 1 April 1999, Belarus utilized the Vienna mechanism. It was addressed to seven countries that were participating in the Kosovo operation or which hosted foreign troops for this operation on their own territories. There are two elements worthy of mention on the employment of the Vienna mechanism as regards unusual military activities:

Firstly, with the exception of two cases, the process has each time progressed multilaterally with the participation of all CSCE/OSCE participating states. The two exceptions were initiated by Hungary vis-à-vis Yugoslavia in 1991 and Belarus against seven countries in 1999. In the former case, Hungary asked for clarification on the frequent violation of its airspace by Yugoslav aircraft. As somewhat similar occurrences induced Austria and Italy to convene multilateral meetings, Hungary could have opted for this as well. However, it consciously rejected this option and chose to meet bilaterally. One should praise Hungary for its carefully considered conduct and many of the country's major partners did indeed do this. The bilateral meeting meant to 'maintain the multilateral option in reserve' in case the violation of Hungary's sovereignty continued.[10] When during the war against the Milosevic regime in the spring of 1999 the Republic of Belarus invoked the mechanism, it did not even convene a meeting with those seven countries to whom it had addressed its request for clarification of the ongoing unusual military activity.[11] Belarus asked certain pertinent questions about the international legal foundations of the operation in Yugoslavia, the size of formations that participated in it and the prospect of its continuation. The Belarus delegation registered two weeks later that three states did not respond to the request in time. The UK, Italy and FYROM exceeded the 48 hours time limit set by the Vienna Document on Confidence- and Security-Building Measures. One state, Bosnia and Herzegovina did not respond at all.[12]

Secondly, the 'unscheduled and unusual' military activity that is subject to the Vienna mechanism is formulated ambiguously. Many different types of militarily significant activities outside the normal peacetime location of military forces could fall

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[10] Formally this is not the case, of course. The fact that a multilateral meeting is convened to discuss the violation of the sovereignty of a country does not preclude that when the same unusual activity reoccurs another meeting with the involvement of all participating states would be convened. Politically and diplomatically, it is troublesome however to launch the same mechanism multilaterally over and over again.

[11] The seven countries addressed were France, Germany, Italy, the UK, the U.S., FYROM, and Bosnia and Herzegovina.

[12] The information is available in *Vystuplenie glavy postoiannoi delegatsii Respubliki Belarus v OBSE posla V. N. Fisenko na sovmestnom zasedanii Postoiannovo Soveta OBSE i Foruma po sotrudnichestvu v oblasti bezopasnosti*, PC.DEL/195/99, 16 April 1999, p. 1.

under this category. Some observers were also under the impression that the intention had been 'to reveal covert operations that might conceal preparations for a military assault'.[13] This is unfounded. The idea of those who drafted the document was to phrase it unambiguously so that no significant activity was excluded from the mechanism's agenda. It is correct that in light of other arms control commitments, which cover many unconcealed activities, like major exercises, troop movements, etc., it was expected that the agenda of the Vienna mechanism would be extended to include additional significant concealed activities. It is important to recall that the Vienna Document does not include the stipulation 'to report unusual military activities'[14] unless they are subject to other regulations of the Vienna CSBM Document. Reality did not follow tacit expectations and the mechanism has been invoked without exception in cases of high profile military activities, mostly large-scale manoeuvres by Yugoslavia and NATO. However, this could not have been reckoned with, as it was the assumption in 1990 that Europe would continue to be free of war, which had been the case in the preceding 45 years. As this assumption proved to be invalid, the mechanism's function has changed.

Despite the decline in the application there are lessons to be drawn for neighbourly relations. The fact that just after it has been introduced, it was relied upon less and less, is an indication that there had been a significant move away from the uncertain security posture in Europe in the early-1990s. The uncertainty at the time stemmed from two factors.

Firstly, the scenario was uncertain as it was unclear what types of conflict could emerge in the whole region east of the European Union and NATO. The countries where such threats might emerge could not be confined to a handful of states. As the West increased its leverage in East-central Europe and started to understand the differences between various local actors the situation changed. The sources of threat (ethnic rivalry, mutually exclusive territorial claims) have become more clearly defined.

Secondly, the number of actors who would possibly violate the norms of international behaviour seriously has also shrunk significantly. Consequently, the assumptions on which the mechanism was based have changed. The possibility of the outbreak of interstate hostilities in the OSCE area has been confined to certain distinct parts of the former Soviet Union and there is some danger of conflict recurrence in the area of the western Balkans. It is in those areas where such a mechanism may make a useful contribution to mitigate the conflicts and provide advance warning if certain activities indicate that violence may reoccur.

There is a factor which is less welcome. Namely, contrary to the past when attempts were made to engage or placate potential problem countries and trouble-makers through a wide range of instruments, such a soft mechanism that does not offer

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[13] Cited by Richard Weitz, 'The CSCE and the Yugoslav Conflict', *RFE/RL Research Report,* 31 January 1992, p. 25.

[14] Albania reminded the Russian Federation of this when Russia requested clarification concerning 'unusual military activity on the Albanian territory'. See point 1 of note 37/99 E of the Permanent Mission of the Republic of Albania to the Permanent Mission of the Russian Federation to the OSCE of 12 May 1999.

extensive carrots and carry major sticks is no longer regarded as adequate. Whether states and leaders have become 'rogue' by themselves or were declared to be 'rogue powers'[15] by outside forces is open to question. When dealing with a 'rogue' partner only those measures which have been backed by credible sanctions, that is, through coercive measures, are reasonable. This was the treatment applied to Slobodan Milosevic in the Kosovo operation of 1999.

In sum, two major tendencies have made this mechanism largely inapplicable. On the one hand, an increasing number of states have joined the Western sphere of influence, a zone of democratic peace that does not require this mechanism in order to avoid causing military threat or political risk to other countries. On the other hand, there are a strictly limited number of actors in Europe who cannot be effectively influenced by a soft mechanism that highlight certain 'deviations' from basic principles and rules of European cooperation. In such a case, the Vienna mechanism may continue to be necessary, though insufficient to influence the activities of some states.

Post-Conflict Arms Control and Confidence-Building

The arms control community made an effort to stop the apparent decline in arms control that accompanied the end of the East-West conflict. Various means were invented to help arms control survive. It was emphasised that arms control does not end with the signing of agreements and that it includes implementation and verification. Hence, arms control retains its relevance due to the implementation of the body of agreements agreed upon during the Cold War. Those accords which have not been concluded had to be negotiated further. This entailed the limitation of personnel strength in the CFE process, the Open Skies Treaty and agreeing upon further CSBMs. The idea to harmonize arms control commitments, i.e. extending those arrangements which were agreed upon by members of the then NATO and the Warsaw Treaty to the then neutral and non-aligned countries, was put forward and considered. Arms control was considered as part of conflict resolution, and it appeared as part of human security with a focus on landmines, small arms and light weapons.

When it was concluded there was no longer a major clash between two military blocs that could jeopardize European security but rather local and sub-regional conflicts. It was a question what the role of arms control in post-conflict settlements would be. There was one conflict which was ripe for resolution: the war in the former Yugoslavia, with an emphasis on the three main players in Bosnia and Herzegovina (Bosnia itself, Croatia and the then Federal Republic of Yugoslavia). The resolution was made possible by peace imposed upon the region in the Dayton Agreement and the peace operation established on the territory. Later, it became apparent that the introduction of arms control measures and their extensive on-site monitoring contributed to stabilization, particularly if the effectiveness of monitoring were increased by permanent military presence. It does not bring about stability, however,

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[15] Later, U.S. President George W. Bush named some states as the 'axis of evil'. No OSCE participating state qualified for this category. They were without exception countries, or rather regimes, of the African and Asian continents.

unless the sources of conflict are addressed. This happened partly in the year 2000 when some of the major players who were actively engaged in it, such as Franjo Tudjman, Alija Izetbegovic and Slobodan Milosevic, left power for one reason or another. It will also happen in the second half of the first decade of the 21st century if the pending status and statehood issues of the former Yugoslavia are regulated to the acceptance and satisfaction of all parties and without the snow-ball effect of destabilization.

Two agreements were subsequently concluded. One on confidence-building measures in January 1996, the other on arms limitations in June 1996. The former largely benefited from the 1994 OSCE document on CSBMs, the latter from the CFE Treaty, both post-Dayton documents reproduced some structures from the former two. The implementation of both agreements was highly successful. This was certainly due to the facilitating role played by the foreign forces controlling the territory where arms reductions had to take place and transparency measures implemented. Although one may say that the populations of the former conflicting parties were tired of violence and in that sense the conflict was 'ripe for resolution', it is more important to consider the role of extensive foreign military assistance in the implementation of limitations and confidence-building measures. If one concludes that the implementation of such measures - that have certainly fostered neighbourly relations - was conditional on foreign military presence then we are presented with a picture that does not promise too much as far as indigenous solutions for pending (frozen) conflicts. If, however, one concludes that the parties would have returned to normality one day with or without external (among others military) assistance the conclusion is entirely different.

It is correct to conclude that lasting conflicts usually have lasting repercussions on the parties following their formal resolution. This is undoubtedly the case not only in the former Yugoslavia but also in some parts of the South Caucasus and elsewhere. Hence, the normalization or re-establishment of good neighbourly relations should not only be fostered by external players, states and international institutions until a formal resolution comes about but also afterwards. In the case of Bosnia and Herzegovina the reconciliation of the parties forming the Federation has been demonstrated so successfully that at their review conference in June 2004 the parties agreed that the changed circumstances had made the Agreement obsolete in practice, and that they would immediately cease to apply most of the measures and terminate the Agreement by 29 September 2004.[16] It is a further demonstration of reconciliation that a single army could soon be set up extending to the two composite entities of the Federation.

In light of the success of the post-Dayton arms control arrangements in the former Yugoslavia, experts advocate that similar arrangements would form part and parcel of agreements ending conflicts elsewhere. The question has to be raised, however, as to how many conflicts we are going to face in Europe which could be influenced by arms control measures among others. How could conflicts be made 'ripe

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[16]   See Heinz Vetschera, Mission accomplished in Bosnia and Herzegovina: Agreement on Confidence- and Security-Building Measures declared obsolete. *OSCE Magazine,* June 2005, pp. 28-30.

for resolution'? Although the importance of arms control measures is not reduced if there are only a few cases where they can be effectively used,[17] it may reduce the contribution of arms control to promoting good neighbourly relations and regional security. Furthermore, if there are only a few cases where arms control (meaning both structural and operational arms control measures on it) in the broad sense could contribute to conflict settlement it may make it difficult to present it as a new function of arms control. This is certainly the case as in the European context there are very few international conflicts where arms control could contribute to resolution. It is certain that arms control could be part and parcel of the settlement of inter-state conflicts. If political conflict resolution is not achieved there is no room for a settlement that entails arms control. Although this may not be tragic for neighbourly relations it may contribute to arms control losing its relevance.

Arms control, including CSBMs, has demonstrated that it can play an important role in post-conflict stabilization in the former Yugoslavia. There were examples when CSBMs could demonstrate their ability to contribute to the political atmosphere during the conflict phase. CSBMs were applied during the Kosovo intervention that was at least a partial success. A step forward was made by Russia in a voluntary, one-off event in 2000 when it arranged an observation visit by representatives of other European states to an area of 'ongoing military activities' in Chechnya. As a follow-up, Russia proposed a procedure for triggering verifiable CSBMs in crisis situations in its model for a modernized Vienna Document. Other states have either been reluctant or unable to make use of such measures in voluntary schemes.

The Future of Regional Confidence-Building in Europe

The last time the OSCE agreed upon a new set of confidence-building measures at its summit meeting in Istanbul in November 1999, agreement upon regional measures was the most important innovation of the document. It declared that the 'participating States are encouraged to undertake, including on the basis of separate agreements, in a bilateral, multilateral or regional context, measures to increase transparency and confidence … Taking into account the regional dimension of security, participating States, on a voluntary basis, may therefore complement OSCE-wide confidence- and security-building measures through additional politically or legally binding measures, tailored to specific regional needs'.[18] The conditions to agree upon such regional measures are sort of self-evident. They entail conditions like the following: a) they

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[17] On the basis of the experience gained from the agreements under the Dayton accord it is concluded that there 'is some reason to believe that similar agreements might have a similarly positive effect in the southern Caucasus'. See Neil Macfarlane, 'Arms Control, Conflict and Peace Settlements: The Caucasus', in Keith Krause and Fred Tanner (eds.), *Arms Control and Contemporary Conflicts: Challenges and Response*, (Geneva: HEI, 2001), p. 50.

[18] Vienna Document 1999 of the Negotiations on Confidence- and Security-Building Measures, FSC.DOC/199, 16 Nov. 1999.

should be in accordance with the basic OSCE principles, b) contribute to strengthening the security and stability of the OSCE area, including the concept of indivisibility of security, c) add to transparency and confidence, d) complement (not duplicate or replace) OSCE-wide CSBMs or arms control agreements, e) be in accordance with international laws and obligations, f) be consistent with the Vienna Document, and g) not be detrimental to the security of third parties in the region.[19] It is the only element of this set of conditions that requires further elucidation, that such regional (sub-regional/bilateral) CSBMs should 'contribute to the … indivisibility of security'.[20] When states agree upon additional arms control measures in a region where the level of regional (all-European) arms control commitments is the highest in the world, it is partly a demonstration of varied security needs and hence, indirectly, a demonstration of the fact that European security is not indivisible. It is furthermore obvious that the reference is due to a diplomatic compromise aiming to beef up the conditions of sub-regional/bilateral CSBMs.

This major step of the participating states could be interpreted in a variety of ways. It can be regarded as a positive contribution to further enriching CSBMs in the European context. It may even be more important that the OSCE countries wanted to give recognition to the varied security situation of the participating states. In this way it was underlined that whereas there is a need for CSBMs in some parts of the OSCE area, they are not necessary elsewhere.

The fact that the OSCE opened the way to regional CSBMs does not mean that they had not existed before. In spite of OSCE's desperate efforts to demonstrate its continuing arms control relevance and its using regional CSBMs as a case in point, there had been regional CSBMs cross-cutting the frontiers of the OSCE. The 1997 Central Asian agreement on mutual reductions of armed forces in the border areas that cover 100 km-wide areas adjacent to the former Chinese-Soviet borders instead of the entire territory of the states in the region, and which also provides for some exclusive 'sensitive' zones within the zone of application, is a case in point. It provided for the formula 'China and Russia plus three', including a joint party of Russia plus Kazakhstan, Kyrgyzstan and Tajikistan. This signified the junior status of the three Central Asian states at the time, which lacked not only a sufficient arms control culture, understanding and experience to be able to tackle various issues under the terms of the agreement on their own but also the means to effectively control their own border and hence territory. Although the accord did not live up to the level of transparency familiar in the OSCE context as the information exchanged on armed forces in the zone of application has been kept secret from other countries (and the public)[21], it has demonstrated the potential regional arms control may acquire.[22]

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[19] Ibid. (142)

[20] Ibid. (142.2)

[21] The public has no access to information exchanged under the CFE Treaty or the CSBMs in the OSCE context either. As the overall data are published at various scholarly forums it is better to speak about a de facto semi-transparent system in this case.

[22] For Central Asian CSBM application see Dmitriy Trofimov, 'Arms Control in Central Asia', in Alyson Bailes et al, *Armaments and Disarmament in the Caucasus and Central Asia*, SIPRI Policy Paper No. 3, Stockholm, July 2003, pp. 46-56.

The rationale for OSCE-wide measures has undergone a change as NATO has expanded to include new member states which accept its democratic principles and partnership mechanisms. These states no longer demand additional confidence-building among themselves (unlike Greece and Turkey among older members[23]). If they gave the indication that they needed some special CSBMs in the bilateral or sub-regional contexts the conclusion would be drawn that although they have become members of the alliance they still face some rivalries that make them suspect of being security risks. One may conclude that CSBMs are not there to indicate the persistence of security risks; they are there to further security. Still, this approach is not generally shared. It is also expectable that some bilateral CSBMs adopted before NATO accession would be phased out in the coming years. (The termination of the 1998 Hungarian-Slovak CSBM agreement in January 2005 was a good example. The forthcoming termination of the Romanian-Hungarian bilateral Open Skies agreement is intended to demonstrate the same.) It is arguable that bilateral and sub-regional CSBM accords do not necessarily have to be terminated upon accession to the Alliance and such a decision should be left to the parties. Particularly, as the existence of their bilateral CSBMs is not an indication of a security problem but a demonstration of the security cooperation of the parties. Furthermore, such bilateral CSBMs, like the unique Romanian-Hungarian Open Skies accord, can set an example for countries in other parts of the world. It is not founded to conclude that the formal accession to the same alliance eliminates the need for CSBMs. The approach that there is no need to have regional/bilateral CSBMs between parties that have joined the same alliance is propagated by some countries, which mistakenly regard the continuation of pending arms control arrangements in the Alliance as the persistence of a security problem.

It took the CSCE/OSCE participating states a decade to give their blessing to regional CSBM solutions. The spectre of fractured European security, plus Cold War habits of worrying about 'class divisions' among allies or partners, stood in the way of bolder endeavours. Nevertheless, painstaking work in the 1990s provided the CSCE/OSCE with measures and tools which enabled it to smoothly tailor its CSBMs to sub-regional and regional use. Since the early 1990s more than 20 CSBM-style bilateral and sub-regional agreements as well as unilateral initiatives have been put into effect in North-Western, Central-Eastern and South-Eastern Europe with the aims of enhancing transparency, openness and confidence; developing military contacts and cooperation; and exchanging more detailed information than the pan-European norms require. The motives for these measures have included focusing on specific security concerns and defusing tensions in, for example, a neighbour-to-neighbour framework; overcoming historical resentments and eventually making them redundant; substituting for the absence in some sub-regions of CFE Treaty constraints; and – not least – helping participating states to meet NATO and/or EU political and security-related criteria as part of their accession strategy. They have sometimes also aimed to encourage neighbouring states to modify their security policies (e.g. the attempts of

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[23]   For the bilateral CSBMs agreed upon between the two see Zdzislaw Lachowski, *Confidence- and Security-Building Measures in the New Europe*, SIPRI Research Report No. 18, (Oxford: Oxford University Press, 2004), pp. 151-155.

Russia to deter the Baltic Sea states from joining NATO). The fact that new NATO member-states were created along the North-Western border of Russia in 2004 may lead Moscow to request more advanced CSBMs (such as the previously rejected proposal to provide increased transparency on military infrastructure) with those states in addition to safeguards under the CFE Treaty.

The regional dimension offers an opportunity to expand, through the back door the scope of CSBMs into areas where the Vienna Document has failed to reach. The blocking effect of long-standing U.S. opposition to naval CSBMs, which have persistently been promoted by Russia and some non-aligned (and even smaller NATO member-) states, is now being mitigated by steps cautiously exploring this type of endeavours in the Black Sea region or in bilateral Finnish-Russian relations. If such steps turn out to be successful this could in the future lead to more advanced naval confidence-building regimes.

Despite their benefits, regional arrangements also present certain risks. With the growing tendency towards security 'subsidiarity', the international community of European states must think harder about how to ensure that the pan-European process of enhancing confidence and stability – and perhaps above all the OSCE principles of equal application and transparency – are not prejudiced by a fixed and diverse 'patchwork' of local schemes. The chances to agree upon Europe-wide measures remain slim, however. It is far more likely that the European agenda continues to be enriched by the adoption of regional and bilateral CSBMs as has been the case since 1999 when the last OSCE CSBM package was adopted.

Sub-Regional Cooperation in Europe in the post-Cold War Environment

(Sub-)Regional cooperation in security and defence matters has several aspects. This is partly due to the shortcomings of the definition of the terms 'security' and 'regional'. If in the European context the term 'security' is interpreted narrowly and confined to military matters, and the term 'regional' contrary to elementary logic is deprived of its meaning as meaning 'all-European' and identified with sub-regional, the following can be derived from the practice of the last 15 years. Cooperation frameworks have mushroomed in East-central Europe and in Eastern Europe. In many cases it is their purpose to promote cooperation generally. The improvement of the political atmosphere certainly has spill-over effects for regional stability and thus security.

Those sub-regional cooperation frameworks of East-central Europe and Eastern Europe that attracted most attention have never been security frameworks *per se*. Some of them had security as their major element in certain phases of their existence. The so-called Visegrad group, the cooperation of Czechoslovakia (and following its dissolution into its two successor states), Hungary and Poland and GUAM, the cooperation of Georgia, Ukraine, Azerbaijan and Moldova are cases in point.

The Visegrad group was initiated by then Hungarian Prime Minister József Antall. In a radio interview in September 1990 he raised the idea to establish permanent

co-operation among Czechoslovakia, Poland and his own country – states, which according to their own assessment were ahead of others in the transformation process.[24] It is a fact that the West reinforced this image for some time by treating these countries differently than other East-central European states. Consequently, one of the decisive matters of East-central European politics appeared at the inception of the process of the last decade: self-differentiation. It was the shared view of the three that they were better prepared to integrate with the West; their democratic system was more established, and their economic performance more convincing. Bearing in mind that the Baltic states hadn't regained their independence at the time and that the three could thus compare their achievements with those of Bulgaria and Romania, there was some reason to regard this assumption founded.

The idea was not particularly well defined and thus evolved in practice. It was clear that there were two main directions for the future activity of the group, a *negative* and a *positive* one. One could summarise the negative one as 'getting rid of the remnants of the past', with a focus on formally terminating such arrangements as the Warsaw Treaty and, to some extent, also the COMECON and completing the withdrawal of Soviet troops. The positive one could be to 'increase the international profile of the countries forming the group' with an emphasis on co-ordinating their western integration. The former would be a more urgent and the latter a more lasting objective.

As far as the termination of the Warsaw Treaty the three countries were united that this should happen in a reasonably short period of time. After the conditions of German unification had been set and the GDR had been absorbed by the FRG, Poland started to share the determination of the other two. This received a new boost in January 1991 when Soviet troops cracked down on forces advocating Lithuania's independence. A week later the meeting of the foreign ministers of the three countries urged 'the earliest possible dissolution of the Warsaw Treaty'.[25]

This reflected the radicalisation of the position of the three. Beyond the solemn establishment of the group this matter dominated the agenda of their Visegrad meeting. The Warsaw Treaty was dissolved, the Soviet troops were withdrawn from Czechoslovakia and Hungary, and the promise was made that they would be withdrawn from Poland as well. The negative agenda rooted in the past was fulfilled and thus exhausted. In the second half of 1992 some problems appeared that had bearing upon Visegrad co-operation as well. After the parliamentary elections in Czechoslovakia it soon became obvious that the federation would fall into its two constituting elements. Neither the Prime Minister of the Czech Republic, nor that of Slovakia, were particularly supportive of Visegrad. One could conclude that the decline of the Visegrad group was due to the dissolution of Czechoslovakia and the views of the

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[24] Interestingly, Antall actually spoke about a framework similar to the WEU. This raised some questions, understandably. On the one hand, whether the cooperation should focus upon military matters and whether it should be institutionalized replacing, rather than complementing other broader cooperation frameworks, like the desire to integrate in NATO and the EU.

[25] Communiqué, Budapest, 21 January 1991. Press Release of the Ministry of Foreign Affairs, No. 5, 1991, p. 2.

leaders who came to power in the two successor states. However, I think this is a superficial, short-hand conclusion. If one takes a closer look it can be concluded that there were deeper underlying reasons for the decline of the group. Namely, the clearly identified agenda related to winding up the Warsaw Treaty and withdrawing Soviet troops, which was exhausted. The Visegrad group was effectively 'desecuritised' in a year.

Although some security related considerations have occasionally reappeared on the agenda they have never become important integral elements of this sub-regional cooperation framework. The pulling effect of NATO was far too strong to be even partially countered by a sub-regional framework. Rumours spread occasionally that the countries of the region would seek arms acquisition together but they have never been substantiated. National interests were too strong to be counter-balanced by economic considerations. The idea that the four states should purchase multi-purpose aircraft together was never considered seriously in the four capitals. It was the most recent example of security cooperation when the members of the group considered to modernize their Mi-24 helicopters together – another idea that apparently will not be realized.

Other sub-regional frameworks, except for the early phase of the development of the Commonwealth of Independent States (CIS), did not have a strong security angle. The CIS was different in the sense of the strong ties that had developed during the seventy years of the Soviet Union's existence. Furthermore, there is a steady flow of documents that underlined the importance of this cooperation. It seems, however, that bearing in mind the political reservations of some of the parties towards each other and the structural imbalance between the largest member of this cooperation and the others, it is not likely that such a cooperation could flourish. It is easier to imagine that some other states in the former Soviet area will form groups that will more closely coordinate their security and defence policies. This is noticeable in the relationship of the Belarus and Russia where military ties have remained intensive.

The Stability Pact

When turning our attention to such forms of regional cooperation which were not initiated by the parties themselves but where the West addressed the perceived problems of the East we arrive first at the Stability Pact initiated by then French Prime Minister Edouard Balladur and promoted by the European Union.

The West has developed various instruments to intensify its relations with the former East and contribute to its stabilization. These links can be described as follows:

- Individual cooperation between western and eastern countries. This could be demonstrated by the hundreds of bilateral accords achieved and by the major reorientation of the economic relations of East-central Europe.
- Cooperation between the West and individual countries of the East. The accession to the Council of Europe and the OECD, the association agreements

with the EU, and Partnership for Peace are good examples of this. There is an institution on one side and a state on the other.

- Cooperation between the West and 'the East' as two groups could be a form of cooperation that was hardly ever explored, as most countries of the former Eastern bloc sought to terminate the links that connected them to their past. The North Atlantic Cooperation Council (NACC) got closest to this pattern.
- The support given to sub-regional cooperation in East-central and South-eastern Europe. The so-called Stability Pact belongs to this category.

As will be argued later, due to the centrality of the West in European politics and also due to the aspirations of East-central Europe, cooperation between the countries of the former Eastern bloc was not a priority for the West. It took some time until it was recognized that it is detrimental to the stability and security of Europe if countries of East-central Europe engage in rivalries. The outbreak of war in Yugoslavia and the intolerant rhetoric of some political leaders in some East-central European countries underlined this concern. In reaction, the West started to assess sub-regional cooperation in East-central Europe more positively and began encouraging it.[26] Still, two major sources of concern have emerged that threaten stability in the West: territorial claims and conflicts over the treatment of national minorities.

It was France that identified these two concerns as prime threats and initiated that the countries of East-central Europe address them. After it was put forward first by the French Premier and then by President Mitterrand, the European Union put it on its agenda in December 1993. The initiative was addressed to the East-central European countries which have already been associated with the EU or which could achieve this status in the future. This means that it was addressed to those states where the EU had significant leverage and not to the less promising (not to mention basket) cases, like the successor states of the former Yugoslavia and that of the Soviet Union. The idea was to make the continuation of the accession process conditional upon progress in East-central Europe on these matters and reflected in bilateral treaties. Success remained partial though, as only one of the most problematic relationships was addressed in the framework of the process. This was reflected in that the Slovak-Hungarian basic treaty was signed at the Final Conference of the Stability Pact in Paris. The Stability Pact has demonstrated that the West is able to foster intra-regional relations in that part of the East where it has significant leverage. It is apparent, however, that the leverage stemmed primarily from the membership aspiration of the countries involved. Interestingly, when the Stability Pact process was taken over by the OSCE in July 1995, an organization in which the East-central European countries had equal

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[26] It is memorable that then British Prime Minister John Major convened a summit meeting with the heads of governments of the so-called Visegrad four (the Czech Republic, Hungary, Poland and Slovakia) and that the Benelux countries offered their support to the same group early on.

membership status with other European and North American countries, it has declined and practically disappeared from European politics.[27]

The Neighbourhood Policy of the European Union

As was mentioned above, the end of the East-West conflict resulted in a re-emergence of regionalism and the recognition of neighbourly relations. Many relations had been artificially severed by multiple divides, including politico-military, economic and human ones. In other cases the most important neighbourly relations were deprived of an interstate character due to the formation of multi-national federations, like the Soviet Union and Yugoslavia. For countries which belonged to those entities it was not only the task to re-establish relations with once forgotten neighbours and partners but also to establish inter-state relations with their non-interstate partners. An attempt was made in the previous section to demonstrate that many former Communist/Socialist countries were more successful in building relations with the West from whom they expected effective support to their political, social and economic transformation than in establishing close relations with their neighbours of similar historical development. Although this conclusion stands corrected as far as many countries had belonged to the same federation, it is generally correct to state that there has been relatively little self-induced neighbourly cooperation in East-central Europe and in Eastern Europe since the beginning of the 1990s. It has evolved gradually partly due to the mutual recognition of such a need, partly due to the West taking the initiative to induce regional and bilateral cooperation.

Western institutions and their member-states have traditionally given priority to linking the adjacent areas to themselves since the East-West divide ended. Cooperation between eastern countries themselves was not a priority as long as the western organizations did not notice that the countries of the region did not only say goodbye to their past on the periphery of the Soviet Union but also to cooperation among themselves. Aspirations, inducement and the disproportionately larger resources of the West have all pointed in this direction.

The enlarged West that has embraced and absorbed most of East-central Europe, and which will continue to do so in the years to come after extending itself to Bulgaria and Romania[28] and later to the Western Balkans, has recently been anxious about the sparse regional, including neighbourly, cooperation. This is contrary to the early 1990s when its encouragement of intra-East-central European cooperation remained lax. It was for this reason that the EU launched an initiative addressed to its neighbours before the May 2004 eastern enlargement. This initiative has developed gradually and has become more specific in a period of two years (spring 2003 – spring

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[27] For more details see Pál Dunay and Wolfgang Zellner, 'The Pact on Stability in Europe - A Diplomatic Episode or a Lasting Success?' in Institute for Peace Research and Security Policy Hamburg (ed.), *OSCE-Yearbook 1995/1996*, (Baden-Baden: Nomos Verlagsgesellschaft, 1997), pp. 299-312.

[28] In security terms Bulgaria and Romania have already been integrated with the West since they have joined NATO.

2005). It is the main objective of the 'Wider Europe Initiative', later 'New Neighbourhood Policy', to prevent the emergence of the perception of exclusion after enlargement.

The initiative has addressed states which have no prospect for EU membership for the time being. It is the most pertinent question of this initiative: could the EU have sufficient leverage if it does not offer the prospect of membership to its neighbouring countries? When the EU considered this matter for the first time in the General Affairs Council decision of November 2002, the main aim was to 'set up a framework for relations with Ukraine, Moldova and Belarus'.[29]

Following the 2004 and 2007 enlargements of the EU, each of the above-three countries would become neighbours of the EU. It is in the interest of the EU to define its relationship with its eastern neighbours and for the latter to establish a cooperative relationship both with the organization and its member-states. The initiative was meant to be addressed to a strictly limited number of neighbours for various reasons: the Western Balkans, most of which are also neighbours of EU member-states, was excluded from this group due to the fact it was reiterated several times that 'the future of the Western Balkans is within the European Union'[30]. Russia, a country neighbouring an old member-state (Finland) as well as a few new ones (Estonia, Latvia, Lithuania, Poland), was not included either as the EU believed that Russia deserved special treatment at its own right. No country further away from the borders of the EU was included in the original plan. The concept has evolved in a number of stages, however.

By the time it was launched in March 2003 it has extended to Russia as well as to ten countries of the southern Mediterranean and the Middle East. The 'southern' extension of the concept, according to EU officials, occurred upon the insistence of then President of the EU Commission, Romano Prodi. At a later stage, following the revolution in Georgia, it was further extended to the South Caucasus, including Armenia, Azerbaijan and Georgia. Hence, the EU now has a neighbourhood policy extending to 17 countries (states and a non-state entity). The countries do not form a cohesive entity in any sense. They each have a different geographic location, past, political orientation and socio-economic problems. Some of them are excluded from EU membership by law as non-European countries, whereas others may be considered for such a prospect in the long run. The EU's idea is to establish a 'ring of friends', offering them various benefits the EU has, but no membership. It remains to be seen how successful a policy applying various means but stopping short of offering the prospect of membership could be.

The neighbourhood policy of the EU aims to foster cooperation between the EU and the territories adjacent to it. The issues considered in this context are as follows: borders, regional cooperation, addressing poverty, and assistance for other

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[29] Antonio Ortega, 'A New EU Policy on the Mediterranean', in Judy Batt et al., 'Partners and Neighbours: A CFSP for a Wider Europe', *Chaillot Paper* No. 64, Paris, Institute for Security Studies, September 2003, p. 89.

[30] See, e.g. The Thessaloniki Agenda for the Western Balkans, Annex A to General Affairs and External Relations, 2518th Council Meeting – External Relations, Luxembourg, 16 June 2003. Press Release 10369/03.

reasons. It is necessary to address the issue of borders and regional cooperation in this context.

It is interesting that the border issue in the context of new neighbourhood emerged first as a largely philosophical issue when the President of the Commission raised the issue: 'We need a debate in Europe to decide where the limits of Europe lie and prevent these limits being determined by others. We also have to admit that currently we could not convince our citizens of the need to extend the EU's borders still further to the east'.[31] Events since the speech have underlined the words of Romano Prodi, and there is no doubt that rapid expansion of the EU will have to stop after 2007. It would require thorough consideration before such a public debate is initiated, however. Namely, if in discussing the borders of a future Europe the EU member states come to the conclusion of where they are actually (or soon) going to be drawn to, it could erect a new wall.

If one accepts the argument that ambiguity regarding the future eventual accession of a country to the EU provides it with certain leverage, then the conclusion of such a debate would deprive it of the political influence it may need. In case such a debate has to remain inconclusive the question emerges why it has to be conducted. It is a separate matter if the discussion is about setting the priorities right. Namely, to conclude which country/group of countries carries better prospect for membership and hence should be made eligible to more support/assistance from the community in order to make it better prepared for membership in due course. Declaring that the 'boat is full' may result in undesirable consequences. If 'Europe' draws the conclusion that it is not in the position to enlarge for a historically long period to come, political elites of aspiring countries may not feel motivated to move in the direction that may be the preference of the EU.

There is room for innovative thinking, however. It has to extend to the matter in order for the concept of borders as separating lines to be revised for this purpose.[32] The fact that borders are heavily affected by current challenges to border regimes must be taken into account. On the one hand, when challenges and threats are associated with trans-border crime, terrorism and illegal migration rather than with the potential of traditional military conflicts, the climate may not be favourable to viewing borders as connecting areas. On the other hand, there is reason to assume that the alignment of border management by the new member-states of the European Union in order to become part of the Schengen regime in 2007 or so will improve their border management capacity, the somewhat worryingly high levels of corrupt practices notwithstanding. The frequent identification of corruption should not necessarily be regarded as evidence of an increase of such practices though. It could also be evidence of more successful enforcement of laws.

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[31] Romano Prodi, 'A Wider Europe – A Proximity Policy as the Key to Stability', Brussels, 5-6 December 2002, p. 3. Available at
http://europa.eu.int/rapid/start/cgi/guesten.ksh?p_ action.gettxt=gt&doc=SPEECH/02/61

[32] Jan Zielonka, 'Introduction: Boundary Making by the European Union', in Jan Zielonka (ed.), *Europe Unbound: Enlarging and Reshaping the Boundaries of the European Union*, (London and New York: Routledge, 2002), p. 11.

Borders can connect people and separate them. This is the case in particular between the EU and the four states of the western Newly Independent States (NIS). The 15 members European Union, on the basis of coordinated policy, maintained a regime for the free movement of persons between the countries mentioned in the wider Europe concept and the Union. Travel was based on the possession of a valid passport and visa.[33] The problem stemmed from the fact that the then East-central European accession states had visa free travel with countries of the western NIS throughout the 1990s, something which they had to give up when they aligned their visa regime before EU accession. This has created some problems in their business interests and in people to people relations with these countries. In the end, many countries were ready to accept asymmetrical solutions. For example, the accession countries provide Ukrainian citizens with visas for free whereas Ukraine does not demand visas from the citizens of countries like Hungary, Poland[34] and Slovakia. If, in accordance with the EU *acquis* these countries will have to charge visa fees at a later stage it may burden humanitarian relations with countries further to the East and eliminate a reasonable compromise currently achieved. There are pre-eminent interests to maintain the currently established visa regime between the eastern-most members of the EU and the western NIS. An adequate balance has to be created and maintained between the security and economic interests of the EU and its member-states as well as interests related to maintaining humanitarian contacts. It may furthermore create a severe problem if the population of the countries of wider Europe get no other exposure to the EU 'than just by queuing for a visa'.[35]

It is a severe dilemma for the EU that its border regime would not recreate the once perceived danger of a 'fortress Europe', rather than fostering neighbourly and regional cooperation. The implementation of the visa regime and the Schengen *acquis* has already hit hard and will do so even more in the future for NIS citizens who work illegally in the enlarged EU or who engage in trading illegal amounts of excised goods. This is hardly a downside, although it may contribute to some decline in economic prosperity in the respective areas. As the volume of passenger traffic, it is also necessary to differentiate according to purpose. Whereas widespread suitcase trade - as a symptom of retarded economic development - should not be supported, human contacts should.

The political determination to avoid creating a new divide between the countries on the two sides of the external border of the EU is not sufficient to provide for intensive human contacts in the framework of good neighbourly relations. The state of transport and border infrastructures varies significantly along the external border of

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[33] Israel is the only country among the 17 'new neighbours' that has got visa free treatment up to ninety days under the Schengen agreement.

[34] This model was first introduced between Poland and Ukraine. '[T]he Polish government, agreed that Ukraine will not introduce visas for Polish nationals as of 1 July 2003 while Poland will waive fees for visas issued to Ukrainian nationals...'. Address by Mr. Aleksandr Kwasniewski, President of the Republic of Poland, in *European Union Enlargement and Neighbourhood Policy*, (Warsaw: Stefan Batory Foundation, 2003), p. 12.

[35] Comment by Heather Grabbe, in *European Union Enlargement and Neighbourhood Policy*, Op. Cit. p. 59.

the EU. Even though we saw almost revolutionary progress over the last years in terms of the development and modernization of roads, border checkpoints, etc, there is still a lot to do. Within the framework of the European Neighbourhood Policy (ENP), the EU should provide for border infrastructure development programmes between the new member-states and their eastern neighbours. The focus of such programmes should not be confined to the new EU members and their neighbours. It should also facilitate the development of border infrastructure between neighbours even if this is a lesser priority of ENP.[36]

The EU has made efforts to maintain and possibly extend regional cooperation between border regions encompassing old and new member-states. The EU has foreseen to allocate 195 million euros for this in the period of 2001-6. Less attention has been devoted to cross-border relations between the new members/accession countries and countries involved in ENP. It would be important to intensify this cooperation in order to avoid the creation of sharp dividing lines between an enlarging EU and the rest of the continent.

A Few Lessons of Partnership for Peace (PfP)

Partnership for Peace (PfP) was launched as a result of the recognition of the then 16 members of NATO that after the end of the Cold War with the end of the Warsaw Treaty the armed forces of the East were renationalized and that their cooperation was largely non-existent. The armed forces of most countries East of the Elbe had neither the political and strategic guidance, nor the expertise and resources to carry out their modernization and make themselves ready for tasks fundamentally different from the ones of individual (and collective) self-defence or, more often than not, offence. The first cooperative framework offered by NATO to its eastern partners was a rather loose multilateral exchange of views, the North Atlantic Cooperation Council (NACC) established in 1991. It had contributed to the socialization of the members of the former Warsaw Treaty with NATO. It had two major disadvantages, however: 1) it offered the same to every eastern partner, i.e. it was not suitable for differentiation. 2) It focussed on the political and diplomatic aspects of cooperation and not on the militaries, which were left in a desperate situation as they were the losers of the systemic transformation in every country without exception. PfP took care of both problems. It is an individualized programme under which the partner states in cooperation with NATO could decide what items to put on the agenda. It is a programme which focuses on cooperation between the militaries. This arrangement, received critically in some East-central European capitals as a delaying tactic to prevent their accession to NATO, turned out to be one of the biggest successes of the Alliance's history. As NATO itself has no armed forces, and most of its armaments and equipment is also at the disposal of the member-states, it has created bilateral links between members and most of the rest of Europe. These links have been important vehicles to prepare some countries for

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[36]   For a detailed analysis of the new eastern borders of the EU see Bartosz Cichocki, 'The Eastern External Border of the Enlarged European Union', in *CES Studies*, (Warsaw: Centre for Eastern Studies, 2004), pp. 59-73.

membership and contribute to the modernization of the militaries of many others. The PfP Planning and Review Process (PARP) has been the principal PfP tool to promote interoperability. It lays out interoperability and capability requirements for participants to attain and includes an extensive review process to measure progress. This is an extremely important contribution of NATO to international security beyond the circle of its members. Namely, it makes it possible for the armed forces to work together effectively in global international contingencies. In a situation where most PfP countries' armed forces have the contribution to international operations among their prime tasks, it makes NATO an effective contributor to regional security and global power projection.

While the external military challenge, particularly after 11 September 2001, has made NATO more inclusive and open for partnership in the operational sense, so has PfP been enriched by operational content. This is partly due to the fact that terrorism has taken over the role of prime international security threat in the world directed primarily, though far from exclusively, against the West. This makes it indispensable to find partners all over the world. As it is difficult to locate the source of threats geographically it is best to develop an inclusive security structure. PfP is readily available for this purpose in the Euro-Atlantic region.

It has undeniably been a shortcoming of PfP that it has established links primarily between members and partners, while paying far less attention to relations between partners. This has resulted in a situation in which NATO has become and remained the epicentre of the relationship. This understandably meets the security interests of NATO, its member-states and like-minded countries. It remains to be seen whether such a structure meets the interests of every country associated with the programme.

Conclusions

Good neighbourly relations and regional cooperation have regained their natural shape since the end of the Cold War. Geographical vicinity is far more important than it was when the East-West divide dominated international relations in Europe. Institutional alignments have rearranged regional links, but there is little doubt that vicinity and traditional links will matter a lot in the long run. Geography and geopolitics have a more lasting influence on international relations than any kind of temporary interest, irrespective how lasting it may seem.

Sub-regional cooperation has become a lasting complementary element of international relations in Europe. Its complementary character can be derived from the fact that it is under pressure from two sides: from multilateral cooperation in the framework of institutions, which aspire to shape different aspects of cooperation for the whole of Europe, like NATO, the EU and the Council of Europe, to traditional bilateral inter-state cooperation. It depends largely on these two vectors how much room for manoeuvring remains for sub-regional entities. The experience of the last 15 years demonstrates that there is little room for manoeuvring for sub-regional entities in an era when international relations are dominated by the western power centre.

Due to the distribution of power, influence and economic resources, centre-periphery relations have emerged with many countries moving their regional alignment from a moribund eastern alliance to the prosperous west. This means that although normal bilateral relations are encouraged by the West the allocation of resources does not equally back this in different directions. Consequently, the intensity of neighbourly relations has increased in those cases where joint multilateral engagement served as a framework to it. Neighbourly relations have retained their intensity in cases where they could be based on traditions (e.g. Scandinavia) or where states spent a longer historical period together in a federative framework (e.g. the successors of the former Soviet Union and Czechoslovakia). The former Soviet area seems to be heading to a cooperation framework that unites those states and regimes that share the same values (and more or less clearly deny other ones).

There was no sufficient energy in most countries to initiate regional cooperation or reshape their neighbourly relations since the end of the Cold War. Those frameworks which have got some external boost have flourished and have thus been linked to some of the central actors of European politics. This has reflected the rearrangement of power and influence in Europe since the end of the Cold War.

Chapter 12

Intelligence Management and Oversight

Col. Fred Schreier

What is Intelligence?

Definitions of intelligence abound,[1] but are more often obfuscating rather than clarifying.[2] In general usage, intelligence denotes five things: (1) a *particular knowledge*; (2) the *type of organization producing that know-ledge*; (3) the *activity pursued by this organization*;[3] (4) the *process guiding these activities*; and (5) the *product resulting from these activities and processes*.

In the narrower sense, intelligence is a subset of the broader category of information which – in the hierarchy underlying modern knowledge management theory – is a step in the chain of value creation, beginning with data, leading to information, then to knowledge, and culminating in wisdom. Since knowledge resides in the user and not in the collection of information, only human beings can take the central role in knowledge creation. Information, available in ever greater abundance and thus ever cheaper, has become the only factor of production which gains value by its use.[4] And if more people work on the same data and information, the greater the value in knowledge they can gain from it. While information is anything that can be known, regardless of how it may be discovered, intelligence refers to that *particular knowledge* that meets the stated or understood needs either of decision- and policymakers or of military commanders and planners. Moreover, that particular knowledge often is knowledge of the hidden and foreknowledge of the unpredictable.

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[1] For the many definitions see: http://intellit.muskingum.edu/whatis_folder/whatisintelintro.html

[2] For a comprehensive discussion of definitional questions and issues, see: Codevilla, Angelo. 1992. *Informing Statecraft: Intelligence for A New Century*; New York: The Free Press; pp. 3-47.

[3] Kent, Sherman. 1965. *Strategic Intelligence for US World Policy*. Hamden: Archon Books, p. xxiii.

[4] Land, labor, and capital – the traditional factors of production – do not disappear, but they become secondary to knowledge. Companies born in virtual forms of the Net, such as '*etoys*' and '*amazon.com*' have gained many times the value of their brick-and-mortar counterparts, despite limited investments in traditional factors of production.

Intelligence refers to the *organization* producing that particular knowledge. These are *External* or *Foreign Intelligence Services* producing intelligence relevant to external security; and *Internal Intelligence* or *Security Services* producing intelligence relevant to the internal security of a nation.

Intelligence also refers to the *activities* pursued by intelligence institutions. These activities fall into four categories of functions of intelligence services: intelligence *collection*; intelligence *analysis*; *counterintelligence* to protect society and the own intelligence capability against hostile intelligence activities, deception, and sabotage; and *covert action*, comprising clandestine activities to influence situations and conditions abroad in furtherance of the national interests.

Intelligence also refers to the *process* guiding the activities of intelligence institutions – one by which data and information are identified, obtained, and analyzed to respond to the needs of government or the military leadership. Or more generally: as process, intelligence is the means by which the government or military commanders request, and intelligence organizations collect, analyze, and disseminate certain types of required information. This typically happens in the *intelligence cycle* of five steps: planning and direction; collection; processing; analysis and production; and dissemination of intelligence.

The degrees of *processing* vary. Intercepted messages, imagery, and many covertly acquired documents need careful exegesis. Others may be relatively transparent, though even these may necessitate translation. Thus, most intelligence output has a significant element of *processing*, and precisely this is reflected in the military distinction between 'unprocessed data of every description' – defined as information – and 'the product resulting from the processing of information' – defined as intelligence.[5] Hence, all intelligence is information; but not all information is intelligence.[6]

Compared to the assemblage of information from diplomatic and other sources, intelligence works more by '*push*' than '*pull*' and its processing gives *added value* to its collected evidence. A corollary is that it tends to deal with difficult questions in which there may also be elements of concealment or deception.

Finally, intelligence refers to the *product* resulting from the activities of the intelligence institutions and their processes. These products range from warning and situation reports, briefings, assessments, estimates, to analyses in the most usable form. The product has to be accurate and timely.

Because intelligence is a *tailored output,* meeting specific user needs, it has to persuade its customers through *analytic tradecraft* of a trail of evidence, assumptions and conclusions. Moreover, *opportunity analysis* is advocated: identifying opportunities, chances or vulnerabilities one can exploit to advance a policy, to plan an intervention, or to conduct military operations. Thus, it is the accent on analysis, presentation, and persuasion which distinguishes intelligence from information that is

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[5]   *British Joint Operational Intelligence*. 2000. Joint Warfare Publication 2-00; Annex 1A, p. 1.

[6]   Lowenthal, Mark. 2003. *Intelligence: From Secrets to Policy*. 2nd ed. Washington D.C.: CQ Press, p. 2.

more of the reporting and news type. In addition, the emphasis on processing is reinforced by the forecasting role since intelligence's greatest value is as a *guide to the future*.[7]

Hence, intelligence is like archaeology: a matter of interpreting evidence as well as finding it.[8] Cleverness in a wide sense distinguishes intelligence from information of the media type − though even the best intelligence does not guarantee wisdom. Nevertheless, intelligence as objective judgment and forecasting deserves recognition and a prominent place, not only in any concept of democratic order, but ever more so in the multilateral scope of international cooperation.

What is the Purpose of Intelligence?

The purpose of intelligence is to inform government: *telling truth unto power*. The rule for tasking intelligence services is to collect information kept secret or hidden, and which cannot be acquired better, more safely or more cheaply by any other means. Intelligence serves and is subservient to decision- and policymaking and the military leadership. It exists to: (1) *ensure early warning*; (2) *provide long-term expertise*;[9] (3) *support the decision- and policymaking process*, and, in conflict, *military operations*; and (4) *maintain and protect secrets* – the lifeblood of intelligence.

- **Early Warning**

Intelligence services must, at all times, help government, the nation, and its armed forces to avoid falling victim to strategic surprise. Thus, intelligence services must be able to warn of impending crises, and detect possible surprises, dangers, threats or attacks in advance. With greater vulnerability of the critical national infrastructure and with smaller military and security forces, the warning function grows in importance. Sufficient time is needed to prepare defence and to adapt the armed forces should full reconstitution be required again. Very early warning thus becomes a necessity.

- **Providing Long-Term Expertise**

Intelligence is partly a government's specialist on certain methods of intelligence collection and exploitation of data and information, but at the same time partly the expert on certain subjects, with its role balancing uneasily between the two. In formal terms, the scope of intelligence coverage appears unlimited since there are few guides to the subjects that an intelligence service should not tackle. Yet, there are clear limitations to the subjects on which these services hold authority. These are areas where they have a comparative advantage over other sources of knowledge, and these

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[7]   Herman, Michael. 2001. *Intelligence Services in the Information Age*. London: Frank Cass Publishers, pp. 7-9.

[8]   Ibid. p. 10.

[9]   Ibid. pp. 2-5.

tend to consist in the fungible but recognizable ideas of *national security*. There, intelligence' biggest subjects are *intentions* of actual or potential opponents, and *risks for violent change*, threats of it, and instabilities, as well as situations in which these figure, along with all means and methods of conflict, their use or intended use, the capabilities they provide, their scope for development, and the threats that they constitute.

Intimate knowledge of the strategic situation, the possible and probable developments, the risks, dangers, threats and opportunities is not only necessary for ensuring early warning, it is also a prerequisite for: (1) the definition of the national interests; (2) the development of a sound national security strategy, an adequate security policy, and corresponding military strategies; (3) the determination of the missions of the forces protecting the critical national infrastructure, of the security forces and the armed forces; and (4) the establishment of doctrine and its translation into operations.

Only if top executive decision- and policymakers, the leadership of the armed forces, and their planners and councillors are sufficiently informed about the state of the world, the likely developments, the potential and existing threats, dangers, risks, opportunities and chances, can they be expected to make sound judgments and policies in the areas of internal and external security, national defence and foreign relations. Moreover, this knowledge, contingency planning, and timely warning are the prerequisites for efficient and effective national crisis management. Intelligence services provide the basis for this knowledge.

Supporting the Decision- and Policy- Making Process

The rapid evolution of the strategic, political, and economic environment since the end of the Cold War has furthered the quest for information on security issues that governments will have to pursue. With trans-national risks and dangers predominating, national security is becoming more dependent on regional and global stability, and the solidarity of like-minded nations. Since geographical distance can no longer provide adequate security, states have to influence crises and conflicts, and focus security and foreign policy ever more on conflict prevention, crisis management, crisis reaction and intervention in coalition with the able and willing. This the more so, since the diverse array of global, regional and trans-national political, economic, social, and military challenges, and growing budgetary constraints requires for states the transition away from *risk avoidance* to a *risk management* focus.

Improved intelligence support for decision- and policymaking is needed because the world of the 21st Century is likely to be fraught with new perils, more uncertainty and unpredictability than at any other time in history. Three trends mark the foreseeable development, which will multiply the security challenges, make assessments more complex, developments less predictable, and crisis and conflicts less calculable:

- The multiplication of actors, sources of crises, and means for applying violence and waging conflicts − which will render the causes of crises, conflicts and threats multidimensional.
- The increasing displacement of violence into urban areas and into the domain of internal security or domestic safety, with more economically, ethnically, religiously and ideologically motivated societal strife, in new and mainly asymmetric or unconventional forms of conflict − which may undermine the right of self-defence.
- Accelerating technological innovation and developments, resulting, on the one hand, in ever greater interconnectivity, access to information, growing economic and financial interdependence, and expanding networks of international relations and, on the other hand, in ever greater availability of means and methods of interference, disruption, and destruction − which will greatly enhance regional and global inter-dependence as well as the vulnerabilities of developed nations.

With new dynamics and vulnerabilities at play, leadership has become more complicated. Governments must understand these in order to respond to them. Often options available will depend upon how early problems are identified. Choosing the right option, in turn, will depend upon knowing what the consequences are apt to be. Once a course of action is chosen, it becomes important to know what the effects of the decision have been, so that any necessary adjustments can be made. In every instance making the right choice will hinge upon the quality of the intelligence available. Hence, informed decision- and policymaking require good intelligence, assessments and warning. Good intelligence does not guarantee good policy, but poor intelligence does guarantee bad policy.

In this sense, in the hands of responsible democratic leaders, intelligence is the major contributor to the state's absolute obligation to its people to make sure that intentions are known and threats to security detected in time to be counteracted for harm, death and destruction to be prevented.[10]

Maintaining and Protecting Secrets

Transparency of the government, the state administration, and the activities of all agencies is important in a democracy, if the government wants to retain legitimacy, acceptance by, and support of, the public, the electorate and the taxpayer.[11] However, to obtain information that others would deny or keep secret, the government must rely

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[10] Lustgarten, Laurence & Leigh, Ian. 1994. *In from the Cold: National Security and Parliamentary Democracy*, Oxford: Clarendon Press.

[11] Hulnick, Arthur. Winter 1999. Openness: Being Public About Secret Intelligence. *International Journal of Intelligence and Counterintelligence.* Vol. 12, no. 2; pp. 463-483. Robertson, K. G. 1999. *Secrecy and Open Government*. New York: Macmillan. And: Turner, Stansfield. 1985. *Secrecy and Democracy*. Boston: Houghton Mifflin.

on intelligence services that require capabilities and authorities which are unavailable to other government agencies. Intelligence services must not only use intrusive techniques, but must also have the legal power for their use.[12] What is more, they have to do much of their collection and analysis in secret. Thus, secrecy is an invaluable resource.[13] The need for secrecy means that the activities and performance of intelligence services cannot be as transparent as those of other government bodies, nor can they be subject to the same degree of public scrutiny and debate. Publishing information on the allocation of resources or the successes of intelligence services would risk revealing their capabilities and targets and, in so doing, might seriously compromise their effectiveness. Thus, for intelligence services to carry out their business effectively, there are some sensitive domains of activities which have to be and to remain secret.[14] In democracies, at least three generally agreed items of intelligence are sensitive:

1.	All information pertaining to intelligence targets, sources, operations, methods, procedures and means of collection.
2.	Anonymity of the operational staff and protection of its knowledge.
3.	Origin and details of intelligence provided by foreign intelligence and security services in confidence.

All intelligence services require the maintenance of secrecy on those issues. They must be able to guarantee protection of the identity of sources as well as protection of classified information received. This must not only be for themselves and for the protection of their personnel, but also for the people from the outside world who work with the services. Secrecy is needed, because it is the only way to assure actual and potential sources of their own safety. No one will volunteer to work for an intelligence service that is unable to prevent the public disclosure of its sources.

The need for anonymity of the service's operational staff follows from the first item: targets, sources, operations, methods, procedures and means of collection cannot remain secret if the personnel engaged in operations are known to the public. Disclosure of the identities of members of intelligence agencies will expose them to danger and counterintelligence attacks. Knowledge and activities of intelligence services need to be protected since disclosure could reveal intentions, the specific targets of the collection effort, as well as the capabilities of collection systems –

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[12]	Intelligence services require the enactment of a legal framework which must define the area of responsibility of the services, the limits of their competence, the mechanisms of oversight and accountability, as well as the legal means to deal with complaints in cases of violation of rights. A system of statutory regulation, coordination and control is needed to guide intelligence work. Such a system can consist of laws, executive orders, directives and ministerial or agency regulations.

[13]	Herman, Michael. 2001. *Intelligence Services in the Information Age*. London & Portland, OR: Frank Cass, pp. 4-6.

[14]	In the US, under the National Security Act, the DCI is personally responsible for protecting the sources and methods of US intelligence.

disclosures that could lead to precautionary and effective countermeasures, disruption of operations, as well as denial of access and collection in the future. All too often intelligence successes must remain secret in order to ensure continued successful intelligence collection.

If the government is interested in, and seeks the cooperation and intelligence exchange of, its intelligence service with intelligence and security services of foreign countries,[15] maintenance of secrecy of the origin and the content of intelligence and assessments provided is essential. All documents and carriers of intelligence remain the property of the nation providing them and cannot be further disseminated without its permission. Since intelligence has to be made available to those foreign services under arrangements for intelligence sharing, maintenance of secrecy is equally expected from those foreign services. Hence, it is necessary to establish clear guidelines and rules for the access to, for classification, distribution and archiving of intelligence, with respect to one's own officials and the public, as well as to foreign government officials and agencies.

However, not everything ought to be protected and kept secret. Only to the extent that disclosure compromises or degrades sensitive intelligence sources and methods, does intelligence disclosure become self-defeating. While publicity about intelligence, both factual and fictional, is rampant, in liberal democratic states the public believe that governments still classify too many documents and keep too many secrets. In an open society, the will of the people cannot be obstructed for long without some consequences. By far the most effective manner of providing some transparency and at the same time accomplishing the task of public education, is by letting the public benefit directly from the products of intelligence, its knowledge and assessments. Thus, nowadays in the US, official intelligence publications, some of which extremely valuable, are openly available or for sale to the public. Many intelligence services have websites on the Internet, with steadily increasing content.[16] Even codes of ethics for intelligence services are presented on the web. It is obvious that not all intelligence services can offer the public data like the *World Fact Book* of the CIA on their official website,[17] despite this being much used and highly appreciated in the academic world: only big services have the resources to keep such data up-dated. Nonetheless, even services of smaller countries could sanitize some of their products and assessments of current interest, and make them available to the public, particularly when such

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[15]   Richelson, Jeffrey T. & Ball, Desmond. 1985. *The Ties That Bind: Intelligence Cooperation among the UKUSA Countries*. Boston: Allen & Unwin. And: Wylie, Neville. July 1996. Keeping the Swiss Sweet: Intelligence as a factor in British Policy Towards Switzerland During the Second World War. *Intelligence and National Security*. Vol. 11, no. 3; pp. 442-467.

[16]   See for example: The US Central Intelligence Agency (http://www.cia.gov/). The British Security Service (MI5) (http://www.mi5.gov.uk/). The German Bundesnachrichtendienst (http://www.bundesnachrichtendienst.de/start.htm). The Canadian Security and Intelligence Service (http://www.csis-scrs.gc.ca/) and the Russian Intelligence Service (http://www.fsb.ru/)

[17]   See: http://www.cia.gov/cia/publications/factbook/goes/af.html

publications can help to factually clarify controversial issues, developments, events, and government's position.

In addition to a favourable public attitude towards intelligence, which is both desirable and needed in democracies, public collaboration is important. By providing telephone, fax, and e-mail numbers, services can encourage significant public support.

What are the Categories of Intelligence?

Intelligence can be grouped in different ways. Generally, two categories of intelligence are distinguished:

- *Security Intelligence* producing intelligence relevant to *internal security*: for the protection of the state, its constitutional order, the society, and the integrity of its territory, air- and sea-space from foreign-influenced activities, such as subversion, espionage, sabotage and politically motivated violence. Security intelligence is collected by *domestic intelligence* or *security services* to ensure internal security and to help maintain public safety.[18]
- *Foreign Intelligence* producing intelligence relevant to *external security* and for warning. Maintenance of external security requires knowledge of the risks, dangers, threats, and opportunities, and about the likelihood of events and outcomes. Hence, intelligence is needed about intentions, capabilities and activities of foreign powers, organizations, non-state groups, their agents and supporters that represent actual or potential threats to the state and its interests abroad. Foreign intelligence is collected by *external* or *foreign intelligence services* to help promote and safeguard the national interests, including political, economic, military, scientific, social, and other security interests.

Purposes and targets of *foreign intelligence* and *security intelligence* collection differ. So too do the nature and extent of the risks to which they give rise. It is important that the management, control and accountability arrangements reflect these differences. Because of the intrusive nature of the powers of internal intelligence services, and the fact that collection is executed domestically, potentially against the own citizens, *security intelligence* requires stricter controls to ensure that domestic security and safety are appropriately balanced against the rights of individual citizens and residents.[19]

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[18] The British Security Service (MI5), which is the security intelligence agency, for example, also has the mission of safeguarding the economic well-being of the UK against threats from overseas. See: http://www.mi5.gov.uk/function.htm

[19] Johnson, Loch. 2002. *Bombs, Bugs, Drugs and Thugs: Intelligence and America's quest for security*. Chapter 9, Balancing Liberty and Security. New York: New York University Press. pp. 199-222.

What are the Functions of Intelligence?

Generally, intelligence services have three basic functions: *collection, analysis*, and, intrinsic to the entire intelligence process, *counterintelligence*. *Covert action*, the more occasional forth one of foreign intelligence services, is increasingly disputed as an appropriate intelligence function in a modern democratic state.[20]

- **Collection**

Collection is the bedrock of intelligence: the acquisition of data and information about persons, places, events, and activities, which is needed by the government but cannot be obtained through publicly available sources, diplomatic and other contacts. Without collection, intelligence is little more than guesswork.[21]

Collection management systems are used for each of the three principal collection disciplines: *human intelligence* (HUMINT), which is information collected by humans – by spies, agents, and insiders, or gleaned from defectors, 'walk-ins', informers, diplomats, businessmen, travellers, and the media, etc.; *signals intelligence* (SIGINT), which is data and information collected through intercepts, monitoring, and localizing of radio, microwave, radar, or other electronic emissions, including laser, visible light, and electro-optics;[22] and *imagery intelligence* (IMINT), which is data and information collected through photography, electronic, infrared, ultraviolet, hyper-spectral[23] or other image-capturing technologies by satellites or sophisticated land-, air- and sea-based systems.[24]

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[20] Caparini, Marina. 2002. Challenges of control and oversight of intelligence services in a liberal democracy. Paper presented at the Workshop on Democratic and Parliamentary Oversight of Intelligence Services, organized by the Geneva Centre for the Democratic Control of Armed Forces, Geneva 3rd-5th October 2002, p.2.

[21] Lowenthal, Mark. op. cit. pp. 54-86.

[22] For some of the best coverage see: Bamford, James. 2001. *Body of Secrets: Anatomy of the Ultra-Secret National Security Agency – From the Cold War Through the Dawn of a New Century*. New York: Doubleday. And: Bamford, James. 1982. *The Puzzle Palace: A Report on America's Most Secret Agency*. Boston: Viking.

[23] Hyper-spectral sensors break reflected light into different spectral bands which help penetrate camouflage and to identify the location and composition of objects that would otherwise be hidden from even the most advanced visible light cameras and conventional colour sensors.

[24] For airborne and satellite imagery see: US National Commission for the Review of the National Reconnaissance Office. November 14, 2000. *Report: The National Commission for the Review of the National Reconnaissance Office*. Washington D.C.: GPO. Also at: http://www.nrocommission.com And: Best, Richard A. 2000. *Airborne Intelligence, Surveillance, and Reconnaissance (ISR): The U-2 Aircraft and Global Hawk UAV Programs*. Washington D.C.: Congressional Research Service, Library of Congress. Also: *Space Reconnaissance and the Management of Technical Collection*. At: http://www.fas.org/irp/offdocs/int015.html

Human intelligence can be further divided into *overt* and *clandestine collection*. The skills and techniques for clandestine human intelligence are quite different from those required for overt human collection[25] and therefore organizations and responsibilities differ. So too is organizing the reporting and distribution of intelligence collected by each of the disciplines. In clandestine collection, humans will play an ever more significant role, engaging state-of-the-art audio and visual eavesdropping equipment, deploying and monitoring very tiny, stealthy intelligence-gathering robots know as microbots or insectoids, configured with a variety of sophisticated sensors, and using frequency-hopping and randomly generated computer encryption for communication.

Since cartography and mapping have come to depend heavily on imaging, a good argument can be made for lumping military and other mapping within this collection discipline.[26]

Theoretically, all collection capabilities[27] should be engaged against the same target in order to ensure independent confirmation of the facts first obtained by one of the disciplines. Due to numerous complexities or competing requirements this is not always possible or practical, and often very costly. Thus, open source or publicly available information is needed to identify knowledge gaps, confirm that the information is not otherwise available, to ensure that the need justifies using expensive or risky collection capabilities to obtain it, and only then to task intelligence collectors.

Intelligence collection systems should not be engaged for the gathering of publicly available information. Although it will often be collected as a collateral by-product during the course of intelligence collection, public information should be obtained through other means than clandestine ones. Secret intelligence collection capabilities should only be used to collect information that can reasonably be determined, or that has been previously validated to be of importance to the policymaker or the intelligence user. And there should be a rigorous weighing of possible political costs against the benefits. Hence, senior policy officials must be involved in this process.

- **Analysis**

Analysis is the term used for the process of *collation*, *analysis* and *evaluation* of raw data and *all-source* information and its transformation into intelligence: into warning and situation reports, analyses, assessments, estimates, forecasts, and briefings.[28] If

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[25] Steele, Robert David. 1996. Open Source Intelligence: What Is It? Why Is It Important to the Military? *American Intelligence Journal*. Vol. 17, nos. 1 and 2; pp. 35-41.

[26] Odom, William W. 2003. *Fixing Intelligence. For a More Secure America*. New Haven and London: Yale University Press; pp. 137-138.

[27] For additional collection disciplines see: USAF Intelligence Targeting Guide. February 1998. Air Force Pamphlet 14-210 Intelligence; Attachment 3: Sources of Intelligence, at: http://www.fas.org/irp/doddir/usaf/afpam14-210/part 16.htm

[28] For a good coverage of analysis see: MacEachin, Douglas J. 1994. *The Tradecraft of Analysis: Challenge and Change in the CIA*. Washington D.C.: Consortium for the Study of

collection is likely to be dominated by smart technology, analyses, evaluations, and assessments will still reflect the perspicacity of human minds. No amount of data can substitute for an insightful analyst able to discern the critical policy or operational significance of an event, action or trend which may be hidden within a mass of confusing and contradictory information.[29] The requirement here is the capability of the analyst to 'connect the dots'.

Exercising collection management, analysis can draw on the collection disciplines to provide raw or processed information for evaluation, and the tailoring of the products precisely for the users' needs. These products should contain what is known – the facts; how it is known – the sources; what drives the judgments – linchpin assumptions; the impact if these drivers change – alternative outcomes; and what remains unknown. The overarching goal is to minimize the uncertainty with which policymakers must grapple in making decisions about national security and foreign policy. Furthermore, analysis must help to make sense of complex issues and to call attention to emerging problems or threats to national interests. The importance thereby is not only to determine what is accurate, but foremost what is relevant to the policymaker's needs.[30]

Intelligence services should not satisfy requests for analysis if they know in advance that the information obtained through intelligence will provide little of relevance to the overall analysis of a subject. Neither should they accept requests when such analysis could be readily accomplished using publicly available sources, unless the expertise of intelligence analysts or of the service would add significantly to the analysis of the open source material.

- **Counterintelligence**

Counterintelligence is the national effort to prevent foreign intelligence services and foreign-controlled political movements or groups – often supported by intelligence services – from infiltrating the state's institutions, the ranks of the armed forces and ministries, at home and abroad, in order to engage in espionage, subversion and sabotage.[31] But targets may also include citizens or residents who have no formal

Intelligence. And: Johnson, Loch K. October 1996. Analysis for a New Age. *Intelligence and National Security*, 11, pp. 657-671. Also: *Analysis. Directorate of Intelligence in the 21st Century. Strategic Plan*. August 1996. Washington D.C.: CIA; Unclassified; For Public Release. And: Nielson, Harold. October 1995. The German Analysis and Assessment System. *Intelligence and National Security*. Vol. 10, no. 4; pp.54-71.

29 Dupont, Alan. 2003. Intelligence for the Twenty-First Century. *Intelligence and National Security*; Volume 18, no. 4; p. 22.

30 Davis, Jack. 1996. A Policymaker's Perspective on Intelligence Analysis. *Studies in Intelligence*. Vol. 38, no. 5; pp. 7-15. At: http://www.cia.gov/csi/studies/95unclass/Davis.html

31 For good insights into counterintelligence see: Johnson, William R. 1994. *Thwarting Enemies at Home and Abroad: How to Be a Counterintelligence Officer*. Bethesda, Md.: Stone Trail Press. And: Zuehlke, Arthur A. 1980. What is Counterintelligence? In: *Intelligence Requirements for the 1980s: Counterintelligence*. Godson, Roy; ed.

government affiliation. Counter-intelligence also deals with acts of terrorism, regardless of whether they are initiated at home or abroad. Thus, it straddles the foreign and domestic boundary.

Counterintelligence consists of offensive and defensive measures of protection: *defensively* through inquiries and vetting of one's own civil servants and employees through investigations, monitoring of known or suspected agents, and surveillance activities to detect and neutralize the foreign intelligence service presence; *offensively* through the collation of information about foreign intelligence services and their *modus operandi*, and by recruiting agents, the initiation of operations to penetrate, disrupt, deceive and manipulate these services and related organizations to one's own advantage.

Counterintelligence is an integral part of the entire intelligence process: to make sure that what is collected is genuine through continuous evaluation of sources and information. It differs from intelligence collection in that it exists to counter a threat, whether from hostile intelligence services or from non-state organizations, and is to some degree reactive. Counterintelligence results are not generally produced in the short term, and counterintelligence investigations cannot be limited to arbitrary time periods.

Because espionage is a crime, some counterintelligence leads to law enforcement operations. But catching spies and uncovering foreign technical collection capabilities are more complicated activities than catching domestic and foreign criminals. The motivations and resources backing criminals are different from those supported by foreign intelligence services. Criminal investigation skills, therefore, often work poorly in counter-intelligence operations.[32] Thus, while strong arguments for mixing offensive human intelligence and counterintelligence in a single organization can be made, arguments for mixing counterintelligence and law enforcement are not compelling. Much less so, since a multidisciplinary approach to collection, exploiting also SIGINT and IMINT, is ever more imperative for responding to today's counterintelligence needs.

- **Covert Action**

Covert actions, somewhat comparable to '*active measures*' conducted by the Soviet and other Warsaw Pact intelligence services, are activities used to influence political, military, or economic conditions and situations abroad, where it is intended that the

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Washington D.C.: National Strategy Information Center. Also: Olson, James M. 2001. *A Never-Ending Necessity. The Ten Commandments of Counterintelligence.* Washington D.C.: *Studies in Intelligence*. CIA. At: http://www.odci.gov/csi/studies/fall_winter_2001/article08.html

[32] Hulnick, Arthur S. Fall 1997. Intelligence and Law Enforcement: The 'Spies Are Not Cops' Problem. *International Journal of Intelligence and Counterintelligence*. Vol. 10, no. 3; pp. 269-286. And: Baker, Stewart L. Winter 1994/1995. Should Spies be Cops? *Foreign Policy*. No. 97; pp. 36-52.

role of the own government will not be apparent or acknowledged publicly.[33] They may consist of propaganda measures, support to political or military factions within a specific country, technical and logistical assistance to other governments to deal with problems within their countries, or actions to disrupt illicit activities that threaten one's own national interests or security such as terrorism, organized crime or narcotics trafficking.

Covert action is an option short of military action to achieve objectives which diplomacy alone cannot.[34] Non-military covert action probably has no other logical organizational disposition except within the clandestine human intelligence collection organization.[35] But the overall utility of covert action is a hotly disputed issue.[36] If at all, covert actions should only be undertaken in support of identifiable foreign policy objectives. Such actions have to complement and supplement parallel overt measures of diplomacy, military activities or trade sanctions. While covert actions comprise a small part of the intelligence budget, the majority require a disproportionate share of management and oversight. The major difficulty is that they often create more problems than they solve. Thus, the costs of disclosure and embarrassment must be carefully assessed and, where the political costs are significant, covert actions should only be initiated by democracies in the most compelling circumstances: when the security of the state is directly threatened, when statecraft can be shown not to work, and when the potential ill effects of the action do not outweigh its possible benefits.

What is the 'Management' of Intelligence?

The two main activities conducted by intelligence − *collection* and *analysis* − have to be seen in a wider perspective: one that relates these activities to the requirements and needs of the decision makers and the use made of the finished intelligence product. As a process by which governments request, and intelligence services collect, analyze, and disseminate certain types of required knowledge, the management is done through the concept of the *intelligence cycle*: the process by which information is acquired, converted into intelligence, and made available to decision- and policymakers, military leaders, and other officials or agencies who need intelligence in conducting their duties

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[33]   The CIA defines covert action as "an operation designed to influence governments, events, organizations, or persons in support of foreign policy in a manner that is not necessarily attributable to the sponsoring power".

[34]   For a good account of the problem see: Berkowitz, Bruce D., & Goodman, Allan E. 2000. *Best Truth*, Chapter 5: Covert Action in the Information Age. New Haven and London: Yale University Press, pp. 124-146.

[35]   Odom, William E. 2003. *Fixing Intelligence. For a more Secure America*. New Haven and London: Yale University Press, pp. 24-26.

[36]   Church, Frank. January/February 1976. Covert Action: Swampland of American Foreign Policy. *Bulletin of the Atomic Scientists*. Vol. 52, no. 1; pp. 7-11. Lefever, Ernest W. Spring 1980. Can Covert Action Be Just? *Policy Review*. No. 12; pp. 115-122. Rudgers, David F. April 2000. The Origins of Covert Action. *Journal of Contemporary History*. Vol. 35, no. 2; pp. 249-262.

and responsibilities.[37] The intelligence cycle usually comprises five steps: (1) *planning and direction*; (2) *collection*; (3) *processing*; (4) *production and analysis*; and (5) *dissemination*.

Planning and direction involves the management of the entire intelligence effort, from the identification of the need for data that is derived from the threat assessment or the priority listing of yet unsolved strategy and policy issues, deciding which nations, actors or groups abroad and at home warrant intelligence surveillance, to the final delivery of an intelligence product to the customer. This whole process is initiated by requests or intelligence requirements on certain subjects based on the ultimate needs of the customer − the President, the Prime Minister, the National Security Council, ministers or other government agencies. In some cases, the requests and requirements become institutionalized.

Collection involves the gathering of data and information from which finished intelligence will be produced. The collection process involves open sources, secret sources such as agents and defectors who provide information that is obtainable in no other way, and all technical collection disciplines.

Processing is concerned with the collation and conversion of the vast amount of data and information coming into the system to a more suitable form for the production of finished intelligence, such as language translation and decryption. Information that does not go directly to analysts is sorted and made available for rapid computer retrieval. Thus, processing also refers to sorting by subject matter as well as data reduction − interpretation of the data and information stored on film and tape through the use of highly refined photographic and electronic processes.

Production and analysis refers to the conversion of information and knowledge into finished intelligence. It includes the integration, analysis, evaluation, and assessment of all available data and preparation of a variety of intelligence products. Such products or estimates may be presented as briefings, brief reports or lengthier studies. Data and information collected are frequently fragmentary, at times contradictory, requiring specialists to give it meaning and significance. Thus, good analysis depends upon assembling the best brains possible to evaluate and assess events and conditions, drawing upon a blend of open information and secrets purloined from adversaries. The subjects involved may concern current events, intentions, capabilities, possible and probable future developments, different regions and problems, organizations, groups or personalities in various contexts − political, geographic, economic, financial, scientific, military, or biographic.

Dissemination, the final step in the intelligence cycle, involves the handling and distribution of the finished intelligence to the consumer of intelligence: the same decision- or policymakers whose needs triggered the intelligence cycle. It is a phase rife with opportunities for error. The information must have five essential characteristics for it to be useful: relevance, timeliness, accuracy, breadth, and purity − meaning that it is free of political spin (mis- and disinformation, propaganda, deception, etc.).

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[37]   Johnson, Loch. 2002. *Bombs, Bugs, Drugs and Thugs: Intelligence and America's quest for security*. New York: New York University Press, p. 187.

Often overlooked in the process are two more phases: ***consumption*** and ***feedback***. How, and in which form, policymakers consume intelligence, and the degree to which intelligence is used for what, are important issues. The relationship with the decision makers should be an active and not a passive one. However, objectivity demands a certain distance and a willingness to consider all variables – not just the ones the analyst or his consumer has deemed most important in the past.[38] Though feedback does rarely occur as often as intelligence services might desire, a dialogue between the intelligence consumers and the producers should take place after intelligence has been received. Thus, decision- and policymakers should give the producers some sense of how well their requirements are being met, and discuss any adjustments that need to be made to any parts of the process.[39]

Like any model, this outline of the intelligence cycle is a simplification of the real world. Certain requirements can become 'standing requirements'. Policymakers will only rarely specify items of information. Rather, they will indicate a desire for reports on certain situations or developments, leaving the responsibility of determining how to obtain the information necessary to prepare such reports to the intelligence services. Moreover, the intelligence services have a certain internal need for the acquisition of information to provide for their continued operation: intelligence that will be useful in potential future operations or related to counterintelligence and security. Dissemination is the hardest part of the intelligence cycle to get right. Sharing intelligence, even within a government, is difficult due to the need to keep secret intelligence's methods and sources. Yet, getting the word out to as many responsible officials as possible is imperative for effective security and safety.

Good intelligence management is dependent on the optimal mastering of the intelligence cycle. However, what will distinguish successful intelligence management in the future is the ability to fuse and integrate all elements of the process to provide seamless support for policymakers and operational commanders. Achieving this is ever more demanding because many of the old assumptions no longer apply. Three main factors shape the new paradigm of intelligence management: (1) *changes* that have taken place *in the subject matter that intelligence must cover*; (2) *the need for more intelligence sharing and international cooperation*; and (3) *changes* that are underway *in both information technology and how information is used*.

Changes in Subject Matter

The set of tasks assigned to intelligence services are more complex, more volatile, and more numerous than they ever were. What has dramatically changed for intelligence is the number and diversity of risks, dangers and threats, and the fact that these can

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[38]   Hulnick, Arthur S. May 1986. The Intelligence Producer – Policy Consumer Linkage: A Theoretical Approach. *Intelligence and National Security Journal*, Vol. 1, no. 2, pp. 212-233. And: Haass, Richard N. 2002. Policymakers and the Intelligence Community: Support US Foreign Policy in the Post-9/11 World. *Studies in Intelligence*. Vol. 46, no. 3; pp. 1-13.

[39]   For the '*reality*' of the handling of the cycle and of consumption and feedback see: Lowenthal. op. cit., pp. 50-51.

appear and mutate much more quickly today. Many of the topics intelligence has to cover are quite different from those that concerned governments previously, such as globalization, the global environment, demographic and financial forces that can threaten the welfare of nations and their populations. Thus, intelligence management has to learn to expect and to cope with the unexpected connected with the new risks, dangers, and threats.

The inequality of states apart, where in some sovereignty is a myth, if not hypocrisy,[40] there are still some states with rogue governments which promote destabilization in their strategic environment, produce weapons of mass destruction, provide safe-havens for terrorists, and sponsor the assassination of their political opponents abroad. And there are the *failing* and *failed* states provoking endemic conflict and mass-migration, and likely to turn into prime breeding grounds for terrorism and organized crime.

More important, there are growing numbers of powerful non-state entities and actors: international terrorist organizations; ideological, ethnic or religious extremists; mafias, and large criminal organizations that present serious and dangerous threats to all societies. Taking advantage of globalization, technological innovations, and the opening of borders, and skilfully exploiting the discrepancies between various national laws and judicial procedures, terrorists, extremists, proliferators, weapons and drug dealers, smugglers in human beings or organs, specialists in the laundering and recycling of dirty money, or in the clandestine disposal of noxious waste or polluting materials prosper.

And there are some multinational corporations, NGOs, new intelligence services and – since nowadays it is fashionable to reject the bureaucratic state and to transfer its task to the private sector for the sake of efficiency and cost reductions – all sorts of private military, security and intelligence entities which might require some monitoring. All these actors, and even more so the offenders engaged in hacking and information warfare, have made the problem of predicting what their next moves and targets are going to be many times more complicated.

Thus, with the growing number and diversity of risks, dangers, and threats, the missions of intelligence have greatly expanded, and, simultaneously, also the requirements for intelligence contributions to international security. The latter are no longer limited to crisis management and crisis response, conflict prevention, and peace operations, but extend to other categories of world-wide and long-term security issues. The fight against trans-national terrorism is one where intelligence is the most critical resource. The limitation of weapon of mass destruction and other arms proliferation is another. A third category is support of many agreements that now exist for arms control and other confidence-building measures. Enforcement of international sanctions constitutes a fourth category of wide-ranging, intelligence-driven co-operation.[41] A

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[40] Krasner, Stephen D. 1994. *Sovereignty: Organized Hypocrisy*. Princeton: Princeton University Press.

[41] International arrangements between intelligence services underpin these political agreements in the four categories. National intelligence tips off collaborating nations, or is used to keep them from backsliding.

fifth category is violations of human rights. Intelligence support for disaster relief and humanitarian assistance constitute a sixth category. Moreover, there is the growing need for critical national infrastructure protection, among others against IT and information warfare attacks, the challenges of which pose the problem of international intelligence cooperation in its most extreme form.

Management of intelligence has to exploit all means of collection in a systematic way to try to find intelligence and evidence, foremost about intentions, plans and capabilities, but equally about the organization, activities, resources, communications, connections, and movements of these widely diverse groups. The rule for tasking intelligence services has always been to go after that which cannot be acquired better, more safely or more cheaply by any other means. Methods of collection have changed dramatically during the latter part of the twentieth century: satellite imaging and electronic interception are the most obvious evidence of this, and have become the tools of choice. However, many of the new non-state actors are likely to lack the type of large, fixed facilities and means that technical collection capabilities can most easily target. Most new threats require much more human intelligence collection with individuals who have the language skills, the savvy to take risks, and the willingness to do business with individuals sometimes of the most unsavoury and corrupt kind. At the same time the nature of these threats has made HUMINT not only more difficult, but also much more dangerous for the collectors. And since clandestine penetration can no longer be made safe by using diplomatic cover, the counterintelligence function is gaining in importance. Other trends greatly complicating and negatively affecting the management of intelligence include:

- Technological advances that help intelligence targets to better protect their secrets and better hide their activities. This due to the availability in the open market for anyone with money of sophisticated concealment, deception, and evasion technologies.
- Intelligence efforts must be spread more equally across a much larger number of targets. This is making planning, management, collection, and analysis harder and requires much greater flexibility.
- Surprise comes more often from unanticipated combinations of non-conventional threats. To avoid it, intelligence has to cast a wider net of constant monitoring of all relevant countries and topics – not necessarily in terms of collection, but in terms of 'pulsing' and 'change detection'.
- Important intelligence is ever more often to be found in an increasing number of foreign languages. These require a much greater capability to rapidly scan foreign materials, route them to the right person, and get back accurate translation ever more quickly.
- Building the best possible collection systems can no longer be sustained. Not only have costs escalated, but the vulnerability and inflexibility caused by the resulting decrease in the number of affordable systems is limiting sophisticated technical collection ever more.
- Massive increases in the volume of communication are complicating targeting. While reliance on terrestrial microwave transmissions has diminished, new

methods of communications, such as fibre optic cable, laser, cellular phones, and e-mails are harder to intercept.

- Widening access to, and use of, the Internet worldwide facilitates intelligence collection, acquisition of knowledge and technology, transfer of funds for adversaries, and use of clandestine communications, e.g. with steganography, burying messages in websites and pictures.

- The loss of the monopoly of, and state-control over, cryptology, and the open availability and rapid proliferation of means for relatively high-grade encryption of private communications are diminishing the possibilities to gain important SIGINT and COMINT intakes.

- The growth of commercial satellite photography with one meter or lower resolution capabilities represents a new open source that not only the intelligence services, but also all opponents can use.

Moreover, there is the need to serve a much broader range of government clients with a growing variety of intelligence requirements – and this ever more speedily. Since intelligence is a scarce resource, supply and demand must be reconciled. The manner in which intelligence management is doing this determines how much waste and inefficiency will occur. While intelligence professionals and modern systems can do just about anything, they cannot do everything. Demand consistently outstrips supply. In the industrial world, the two approaches that have evolved to cope with this challenge are top-down central planning and bottom-up consumer-driven free markets. In response to Cold War demands, western intelligence services chose central planning to solve the problem of allocation. Today, the waste and inefficiency of central planning is no longer affordable: it can no longer adequately anticipate missions and intelligence requirements, let alone identify and assess all of the alternatives for meeting them. Cost-effective intelligence requires the resiliency and discipline of the market-place, and new rules of engagement.

Another, often undervalued aspect is continuity, which is of particular importance for smaller countries. Discontinuation of competence cannot be recovered with much hope of success some years later. Politicians and officials without much exposure to the production of intelligence often think that 'the services can mothball competence and keep it going on the backburner for bad times'. In most cases this is not possible. Even less understood is the fact that if intelligence is not alert when a new technology is introduced, it will find it very difficult and often impossible to catch up later. 'At least in the technical field, the truth almost always is that if intelligence does not hang in there, it risks being left out in the cold for a very long time, even if the government is willing to spend a lot of money'.[42] Hence, what is needed in order to succeed in intelligence management is continuity, and increased bilateral and international cooperation among intelligence services.

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[42] Kettis, Par. 2000. The Future of Covert Intelligence. In: Shukman, Harold, ed. *Agents For Change. Intelligence Services in the 21st Century.* London: St Ermin's Press; pp. 83-84.

The Need for More Intelligence Sharing and International Cooperation

Intelligence services have cultural and bureaucratic incentives not to share their information with each other or with those outside the service. These include a natural impulse to hoard information to protect turf, and an ingrained passion for secrecy. Security services and intelligence agencies, in particular, traditionally have resisted sharing information with each other. The US is by far not the only country that has learned with painful clarity that failure to share, coordinate, and connect available intelligence can have devastating consequences. Thus, much more sharing is required – vertically and horizontally, internally and externally. Intelligence management not only has to alter agency incentives and culture to require sharing, but also has to address the excessive emphasis on secrecy and classification that inhibits constructive, timely information flows, while continuing to respect the need to protect genuine sources and methods.

Historically, states have been willing to reciprocate where they share common intelligence interests and concerns.[43] For the most part, these relationships have proven mutually beneficial.[44] Even where the interests of two nations do not entirely converge, intelligence often supplies the *quid* for other's *quo*. Bilateral cooperation normally involves the sharing of intelligence information and analyses on topics of mutual interest. Such bilateral relations can and will, however, only be maintained and continued, if both parties strictly respect the basic agreement underlying their intelligence sharing: that origin and details of the intelligence provided by the partner service will be protected according to its classification, and will not be passed on to third parties.[45]

Though countries with smaller intelligence resources are not always able to bring to the table capabilities which match those of bigger services, they can reciprocate in other ways. In some cases, states can provide geographic and other access that would not otherwise be available. In others, intelligence services of smaller countries can provide skills, expertise, or languages bigger services would otherwise have to develop. While some states spend a greater percentage on intelligence than others, it is often unreasonable to expect quantitative comparability in such relationships. Quite apart from access and capabilities states can provide, there is often great benefit in having close and enduring friends who can be counted upon in times of trouble. Intelligence services provide tangible cement for such security relationships.

Since intelligence requirements of government decision makers increasingly relate to matters that are global or trans-national in nature, intelligence relationships with other countries must be expanded. Not the least reason for this being that no national intelligence agency can effectively cover all of the places where such activities

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[43]   Richelson, Jeffrey. 1999. *The U.S. Intelligence Community*. Exchange and Liaison Arrangements. 4th ed. Boulder: Westview Press.

[44]   See for example: Herman, Michael. 2001. *Intelligence Services in the Information Age*. Norway as an Intelligence Ally. London & Portland, OR: Frank Cass Publishers, pp. 139-146.

[45]   The so-called '*Third-Party Rule*'.

may take place throughout the world. Moreover, numerous special *fora* exist worldwide to deal with specific subjects by bringing together the intelligence services of different countries and which are known to a greater or lesser extent.[46]

New non-military risks and threats, expanding international intervention, and multinational peace operations account for the rapid expansion of requirements for intelligence contributions to international security. At the same time, they are opening the way for more advanced cooperation between security and intelligence organizations from participating and interested countries. Coalition forces deployed in peace operations require virtually the full range of wartime intelligence support. The concepts of graduated force, surgical strikes, low casualties and minimum collateral damage are all intelligence-dependent. And the threat posed by international terrorism and the danger of a recrudescence of internal terrorism make it essential to achieve the broadest possible cooperation among different countries.

Intelligence networking has to occur at the multilateral as well as at the bilateral level. Multilateral networking can take care of the development of appropriate concepts, processes, communication, liaison arrangements, coordination, use of modern technologies and databases, mutual legal assistance, training and other support. Peace operations in Bosnia and Kosovo have already represented what appears to be the new pattern of intelligence support for international intervention of all kinds. All those responsible for such operations, from the UN Secretary General downwards, have emphasized the need for good intelligence. The UN,[47] EU,[48] NATO,[49] other

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[46] Among the more famous in Europe are the "*TREVI Group*", established in 1975, bringing together the ministers of justice and interior of the EU for the fight against "*Terrorisme, Radicalisme, Extrémisme et Violence Internationale*", Maastricht's third pillar − involving immigration and asylum, policing, customs and legal cooperation − superseded *TREVI* and mandated the creation of the multinational European Police Office (Europol), operational since 1998; another one is the "*Berne Club*", set up in 1971 for thematic meetings on the concern of the day, which comprises 19 European countries; a third one is the "*Kilowatt Group*", set up in 1977 and comprising 15 countries; a fourth one is the "*Conference of Western Mediterranean Interior Ministers*", set up in 1982 in Rome to combat Islamic fundamentalism and organized crime, comprising 6 countries. Another one is "*Le Groupe Informel Européen de Coopération dans le Domaine de la Lutte Contre le Terrorisme*" (GIECLCT) which comprises the heads of the EU member states' counterterrorist operational teams, as well as their counterparts from Sweden and Norway. There is the "*Cross-Channel Intelligence Conference*", founded in the early 70s by the 4 countries adjacent to the English Channel. In addition, there is NATO*'s Special Committee* which brings together the security services of the member countries. Other 'clubs' of intelligence services contributing to the limitation of weapons of mass destruction meet regularly in the framework of the Missile Technology Control Regime (MTCR), the Nuclear Suppliers Group, the Australia Group, the Wassenaar Agreement, and other groups. And there is a developing EU-Russia intelligence cooperation aimed at fighting terrorism and sharing intelligence within the Partnership and Cooperation Agreement (PCA).

[47] Many failures in the history of UN field operations might have been avoided if the UN had taken a more forthright approach to intelligence and if it had possessed a stronger mandate to collect information. Though an enlightened view would see international security as an essential prerequisite to national security and the UN as an international institution that needs to be strengthened, including by increasing its capacity to gather and analyse

supranational organizations, and their actions still depend on national intelligence inputs. National intelligence is relied upon to fill gaps, validate other sources, and above all, assess. These international organizations will eventually develop machinery for supranational intelligence assessments, but it will be a long haul and will have to build on interstate exchanges. Since some years, the US and some other countries are committed to intelligence support for international organizations.[50] To some extent, this is already a *de facto* underpinning of international society. But sensitive operational intelligence cooperation will have to remain at the bilateral level and cannot be the subject of multilateral discussions since leaks could come in the way of the effectiveness of such cooperation.

The benefits of sharing are obvious: intelligence exchange is the prerequisite and one of the most decisive elements of timely, informed, and well-developed decision-making for crisis prevention, crisis management and intervention. By improving the response, maximizing the engagement or allotment of resources, and minimizing human suffering, sharing is at the heart of unity of effort and may, moreover, eventually lead to shortened need for presence in the crisis area, implying significant cost-savings.

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intelligence, major states have been reluctant to give the UN a greater intelligence mandate. Many of them, because intelligence is power and because they feel that their own power would be threatened by a UN that possessed real intelligence, especially intelligence they may themselves not have. See: Dorn, Walter A. *The Cloak and the Blue Beret: The Limits of Intelligence-Gathering in UN Peacekeeping*, at: http://www.rmc.ca/academic/gradrech/dorn16_e.html

[48] The EU is striving to build its own intelligence organization, see: Baker, Charles. *The search for a European intelligence policy*. e-Prints, at: http://www.fas.org/irp/eprint/baker.html. And: Becher, Klaus; Molard, Bernhard; Oberson, Frédéric; Politi, Alessandro. 1998. *Vers une politique européenne de renseignement*. Institut d'Etudes de Sécurité. Paris: Cahier de Chaillot No. 34. 58 pp.

[49] There is no integrated intelligence body within the NATO-Alliance. It was national intelligence services' concern over document security that obliged NATO to abandon any idea of creating such a cell. Throughout NATO's history, intelligence, unlike other aspects of defence, has not been organized in truly integrated structures within the Alliance. NATO's limited intelligence elements have produced harmonized assessments of the military risks, dangers, and threats to the treaty area, supported by formal gateways to, as well as informal input by, the intelligence services of the member states. These arrangements are perceived as rather too cumbersome and inflexible to serve as a strategic intelligence network responsive to future requirements of international security policy. There are plans for reform of NATO's intelligence architecture, which take a much broader approach to intelligence. See: van Rensen, Peter. 1997. *Informationsbedarf der Gemeinsamen Aussen- und Sicherheitspolitik der Europäischen Union*. Ebenhausen: SWP Paper IP 3046, pp. 27-29 and 44.

[50] US intelligence is the main contributor to UN and to NATO operations. During IFOR/SFOR and the Kosovo operations in the former Republic of Yugoslavia the US provided by far the largest part of needed intelligence.

Changes in Information Technology and How Information is Used

The Information Revolution may be the single most important factor affecting the management and work of intelligence services. The information environment has changed, in essence 'exploding' beyond anything conceived. No aspect of society and economy is changing as quickly as the world of information, IT and communication. And much more than any other government entity, intelligence is affected by virtually every one of these changes. With the advance of the Internet alone, there is growing access to an ocean of information. Some 85 percent of the information a government needs to come to an autonomous national assessment will come from Open Source Intelligence (OSINT). The rest of it and very important information has to be obtained by technical collection means and clandestine work.

The basic technology trends resulting from the information revolution are: growing capabilities; falling costs; and much greater connectivity. Such progress has led to major changes in how we work and use information, making possible decentralization, distributed operations, networking, and tailored systems. But progress has also enabled the private sector to have technology, and to develop products and services, frequently superior to those of government-bound intelligence organizations. In some cases, the commercial sector will also have better information. Thus, intelligence needs to be capable of changing continuously too. And this will require changes in the craft and management of intelligence going much beyond the redrawing of organizational charts and redesigning chain of command.

The challenge facing management of intelligence today is threefold: sifting through and processing unprecedented amounts of data and information to find the relevant knowledge for evaluation and assessment; to understand how best to leverage the capabilities of the private sector; and to concentrate intelligence collection on those specific areas in which intelligence has a comparative advantage in finding and interpreting the data and information that cannot be obtained from open sources or from the commercial sector. The latter will fall into three categories:

1. Expertise, knowledge and information on subjects that the private sector will not cover adequately because it would be unprofitable;
2. Data and information that the private sector will not or cannot collect because it would be too technologically demanding; and
3. Data and information that the private sector should not, cannot, or will not collect because of legal constraints or risks.[51]

Thus, 'comparative advantage' collection, knowing who knows in the private and commercial sector, knowing how to filter masses of openly available information – much of it free, the best of it available at modest costs – together with *intelligence fusion*, will become *core competencies* of intelligence management.

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[51] Berkowitz, Bruce D. & Goodman, Allan E. 2000. *Best Truth. Intelligence in the Information Age*. New Haven and London: Yale University Press; p. 40.

Mainly hampered by secrecy, compartmentalization, and stovepipes, *fusion* requires breaking down bureaucratic cultures and the vertical and horizontal barriers in and between the different organizations, as well as organizational measures that bring together, interconnect, and network the best brains for intelligence analysis and evaluation. The best analysis emerges from a competitive environment where different perspectives are welcomed and alternative hypotheses are encouraged. Better fusion of intelligence can be achieved by pulling together data and information at centralized databases and collaborative workspaces using the most modern information technology available enabling knowledge detection and exploiting discovery methods.[52] The products based on fused intelligence can provide a more comprehensive understanding of the situation; sensibilise or alert all that have access to them to new risks and activities; reduce surprise and reaction time; improve the tasking of collection; and so enhance efficiency, efficacy, and unity of effort.

What is Oversight of Intelligence Services?

A state's system of *democratic control* is the product of its system of government, politics, history, and culture. Arrangements that match the legal and constitutional traditions of the home country are needed, and not necessarily those that appear the most attractive from another. In the same way that there are many different political systems and cultures, many different norms and practices of democratic control and oversight exist.[53] There is no single model for 'democratic control', neither is there a definitive normative model for democratic control of intelligence services.

Regardless of the particular form of control adopted in democracies, direct and most relevant democratic control of intelligence services and their activities is exercised by executive, legislative and judicial entities. Every element plays its specific

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[52] At such hubs, fusion is an adaptive knowledge creation process in which diverse elements of similar or dissimilar observation (data) are aligned, correlated, and combined into organized and indexed sets (information), which are further assessed to model, understand, and explain (knowledge) the makeup and behaviour of a domain under observation. The process is deductive in nature because it compares sensed data and collected information with previously learned (induced) templates or patterns to detect, identify, and model (or dynamically track behaviour of) objects and groups of objects within the observed domain. Deduction is made at the data, information and knowledge levels, using automated reasoning systems that can capture and apply explicit knowledge to locate critical information, focus attention on key issues, detect the presence of know patterns, or discover new patterns in massive volumes of incoming data. These tools also support the creation of complex models and simulations of physical, symbolic, and cognitive systems of interest to intelligence analysts, enabling them to explore and experience the targets to gain deeper understanding of their structure and behaviour. Such models and simulations, while always subject to an evaluation of appropriateness, validity, and usefulness, allow analysts to enter into a problem deeply to gain insight not available by a more cursory examination of the traditional type.

[53] Rindskopf, Elizabeth R. 1988. Intelligence Oversight in a Democracy. *Houston Journal of International Law*. Vol. 11, no. 1; pp. 21-30.

role within the whole package of control, accountability, supervision and oversight, the purpose of which is to provide *assurance of legality*, *proportionality* and *propriety* for activities that are necessarily conducted in secret.[54]

Within these packages, executive control and supervision play the decisive role. The higher the echelon of executive control and supervision, and the greater the seriousness with which it executes its tasks, the lesser the likelihood of problems accruing to the government from judicial supervision and legislative oversight. It is the executive which is fully responsible for the proper controls and auditing of the intelligence services, thus creating the necessary base for transparency and parliamentary oversight.

Countries influenced by the British Common Law tradition, tend to emphasize the judicial aspect of control, whereas in continental Europe and in those countries that have experienced repressive powers of intelligence services at some point in their recent history, more legislative oversight is favoured. Most democracies have implemented some degree of legislative oversight. Some parliaments may actively exercise oversight functions, requesting reports and briefings, while others may receive a ministerial report or briefing only in the context of the annual budget vote, or not at all. While few countries come close to providing the degree of legislative oversight the US and Germany have, France has yet to let parliament participate in the oversight of the intelligence services.[55] Others, like Norway, have an independent committee for the monitoring and supervision of intelligence, surveillance and security services,[56] the members of which are elected by parliament. The committee reports to parliament in the form of annual and special reports. It also deals with complaints from private individuals and organizations that believe that the secret services have committed injustices against them. In Canada too, parliamentary involvement is limited. The only body specifically designed for and assigned to the task of ongoing external review in the intelligence community is the Security Intelligence Review Committee of no less than three, and no more than five Privy Councillors, who are not sitting members of parliament. They have two mandates: to provide an external review of the Canadian

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[54] Caparini, Marina. 2002. Challenges of control and oversight of intelligence services in a liberal democracy. Paper presented at the Workshop on Democratic and Parliamentary Oversight of Intelligence Services, held in Geneva 3rd-5th October, organized by the Geneva Centre for the Democratic Control of Armed Forces. Geneva.

[55] Parliamentary oversight will soon be established. See: Faupin, Alain, Major General (ret). 2002. Reform of the French Intelligence Services after the End of the Cold War. Paper presented at the Workshop on Democratic and Parliamentary Oversight of Intelligence Services', held in Geneva 3rd-5th October, organized by the Geneva Centre for the Democratic Control of Armed Forces. And : Denécé, Eric. Mars 2001. Le contrôle parlementaire des services de renseignement. Interview d'Arthur Paecht, député du Var, vice-président de la Commission de la Défense et des Forces armées à l'Assemblée nationale. Paris : L'Harmattan. *Renseignement & Opérations Spéciales*. No. 7; pp. 21-28.

[56] Committee for Monitoring of Intelligence, Surveillance and Security Services, responsible for the supervision of the Norwegian Police Security Service, the Norwegian Defence Security Staff and the Norwegian Intelligence Service = the EOS services. The 7 members conduct their work independently of parliament (Storting) and parliamentarians are not permitted to be members.

Security Intelligence Service (CSIS), and to examine complaints concerning security clearances, immigration, citizenship and other matters involving CSIS investigations.

A number of countries have created an *Ombudsman* institution,[57] a method of controlling the administration, which generally relies on the legislative for its effective operation, often confirmed by, and accountable to, parliament. The Ombudsman can be given powers to investigate alleged violations of human rights by intelligence services, to negotiate with civil servants, to report to the legislature, and to inform the public about the results of the inquiries. Though the Ombudsman does not normally have the ability to issue administrators with binding judgments, he may make suggestions to the legislature that further action be pursued, such as providing redress for a citizen regarding legitimate grievances, or general suggestions for improving procedures and policies. Whilst being an officially sanctioned institution, the Ombudsman is generally free of most bureaucratic impediments and constraints, enjoys access and credibility by other branches of government, and provides a platform for the people.

In addition, though more as an informal mechanism of supervision, vibrant, responsible and independent media, and other actors within civil society, have a role to play.

Executive Control and Accountability

However necessary it may be, secrecy needed for intelligence activities creates a scenario for the potential or perceived abuse of intrusive powers by intelligence services, as well as the perception that inadequate attention may be given to obtaining value for the money spent. To gain the benefits and avoid the risks, *control* and *accountability* arrangements must balance, and be seen to balance, the need to protect and promote national interests with the need to safeguard individual rights and freedoms. At the same time, these arrangements need to ensure an appropriate focus on achieving their desired results.

Control, in the narrowest sense, means ensuring that specific procedures are followed. In the broadest sense, it means creating the conditions that lead to the achievement of agreed standards of performance, including the desired results as well as compliance with law and policy.[58] Control may be exercised by both formal and informal means. In general, formal means are used to ensure the conformity of

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[57] The Ombudsman originated in Scandinavian countries. Ombudsmen are now found in many other countries: Hungary and Poland; the UK and New Zealand; Israel; India; Japan. In Canada, exceptionally, there are a number of specialized Ombudsmen: Prison, Transportation, Human Rights Commission, Privacy Commission, Official Languages Commission. In the US, Ombudsmen are also found at the State and Provincial level of government. See: Caparini, Marina. 2002. *Setting up Mechanisms for Democratic Oversight (of the Security Sector)*. Session on Accountability. Tools for Accountability. p. 6.

[58] Hastedt, Glenn. 1986. Controlling Intelligence: The Role of the DCI. *International Journal of Intelligence and Counterintelligence*. No. 1; pp. 25-40.

intelligence activities with policy and procedures, proper authorizations, funding, audit, and review, while informal means focus on ethics,[59] values, and leadership, etc.

Accountability refers to a relationship based on the obligation to demonstrate and be responsible for performance in light of agreed expectations. Among the prerequisites for effective accountability one finds:

- Clear and agreed roles and responsibilities;
- Clear and agreed expectations of what is to be done and how, what is not to be done, and what is to be achieved;
- Performance expectations that are balanced by the relevant capacities of each party − e.g. authorities, skills and resources;
- Timely and credible reporting of performance achieved in light of expectations;
- Review of, and feedback on, the performance reported, such that achievements are recognized and necessary corrections made.

Arrangements for *control and accountability* can operate entirely within the executive, or can comprise elements that are either in part, or wholly, external to the government.

The most important aspect of *executive control* is the need for competent political guidance of the intelligence services from the people they serve.[60] Thus, policymaker direction must be both the foundation and the catalyst for the work of intelligence. If intelligence does not receive direction, the chances of resources being misdirected and wasted increase. Intelligence services need to know what information to collect and when it is needed. They need to know if their products are useful and how they might be improved to better serve policymakers. Guidance must come from the top. Hence, policymakers need to appreciate what intelligence can offer them to a much greater extent, and become more directly involved in the ways in which intelligence capabilities are used.

As an arm of the government, intelligence services must act according to the policies of the government of the day and in pursuit of objectives relevant to these policies. However, if too close a link between policy and intelligence exists, that is say:

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[59]   Ericson, Paul G. 1992. The Need for Ethical Norms. *Studies in Intelligence*. Vol. 36, no.5; pp. 15-18. And: Godfrey, Drexel E. Jr. April 1978. Ethics and Intelligence. *Foreign Affairs*. No. 56; pp. 624-642. Also: Hulnick, Arthur S. & Mattausch, David D. Spring 1983. Ethics and Morality in United States Secret Intelligence. *Harvard Journal of Law & Public Policy*. Vol. 12, no. 2; pp. 509-522.

[60]   See: Davis, Jack. 1995. A Policymaker's Perspective on Intelligence Analysis. *Studies in Intelligence*. Vol. 38, no. 5; pp. 7-15. At: http://www.cia.gov/csi/studies/95unclass/Davis.html. And: Knott, Stephen. Summer 1998. Executive Power and the Control of American Intelligence. *Intelligence and National Security*. Vol. 13, no. 2; pp. 171-176. Also: Sciaroni, Bretton G. Spring 1989. The Theory and Practice of Executive Branch Intelligence Oversight. *Harvard Journal of Law & Public Policy*. Vol. 12, no. 2; pp. 397-432. And: Lowenthal, Mark M. Winter 1992. Tribal Tongues: Intelligence Consumers - Intelligence Producers. *The Washington Quarterly*. Vol. 15, no. 1; pp. 157-168.

when it becomes policy-driven or when there is political interference in operational activities,[61] intelligence services may become susceptible to being used by political actors as a tool to retain power, or to discredit and undermine opponents. Thus, the misuse of intelligence services with their extraordinary powers by an elected government for its own political ends must be excluded. To this end, intelligence services should be at arms length from policymakers, should not be affiliated with any party, and must be neutral or depoliticized.

The relationship between those who collect and evaluate intelligence and those who use it in the preparation of state policy − the providers and the consumers − is of great importance.[62] Different countries with different needs inevitably conduct the relationship between their intelligence services and their governments differently.[63] The functioning of the US intelligence cycle, for example, changes in practice with every administration and president. Innumerable examples clearly show that political leaders whose interest in, and understanding of, intelligence predate their arrival in office, are, with inevitable exceptions, likely to handle it better than those who are introduced to it on, or shortly before, their advancement.

Since personalities play an unpredictable role,[64] there must be some fuses − institutional functions which bring in consistency, which do not vary from one government to the other, resulting in inconsistent, infrequent guidance, and sometimes no guidance at all, leaving intelligence to fend for itself. The principle source of external guidance for intelligence should be the body of officials directly subordinated to and advising the top decision makers − the president, the prime minister, or an inner circle of cabinet ministers responsible for foreign, defence and internal security policy, economy, foreign trade, and possibly finance and justice. The institutional role of that body should not change with the government elected. Ideally, this could be a National

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[61] Gates, Robert M. 1992. Guarding Against Politicization. *Studies in Intelligence*. Vol. 36, no. 5; pp. 5-13. And: Leadbetter, Wyland F. Jr. & Stephen, Bury J. Spring 1993. Prelude to Desert Storm: The Politicization of Intelligence. *International Journal of Intelligence and Counter-intelligence.* Vol. 6, no. 1; pp. 43-56.

[62] Heymann, Hans Jr. Winter 1984. The Intelligence – Policy Relationship. *Studies in Intelligence*. Also: Hulnick, Arthur S. May 1986. The Intelligence Producer – Policy Consumer Linkage: A Theoretical Approach. *Intelligence and National Security.* Vol. 1, no. 2; pp. 212-233. And: Betts, Richard K. January 1988. Policy-Makers and Intelligence Analysts: Love, Hate or Indifference? *Intelligence and National Security*. Vol. 3, no.1; pp. 184-189. Also: Davies, Philip H. J. October 1995. Organizational Politics and the Development of Britain's Intelligence Producer/Consumer Interface. *Intelligence and National Security*. Vol. 10, no. 4; pp. 113-132. And: Timmerman, Kenneth R. December 1999/January 2000. Shoot the Messenger. *The American Spectator*. Vol. 32, no. 12; pp. 68-70.

[63] Gardiner, Keith L. January 1991. Squaring the Circle: Dealing with Intelligence – Policy Breakdowns. *Intelligence and National Security*. Vol. 6, no. 1; pp. 141-153.

[64] Thomas, Stafford T. Summer 1994. Presidential Styles and DCI Selection. *International Journal of Intelligence and Counterintelligence*. Vol. 7, no. 2; pp. 175-198. And: Warren, Ward. Fall 1995. Policies, Presidents, and DCIs. *International Journal of Intelligence and Counter-intelligence*. Vol. 8, no. 3; pp. 337-344.

Intelligence Council.[65] That said, no matter what structure they are, it should remain clear that the top intelligence chiefs report directly to the top decision makers.

Intelligence failures derive far less from the collection and analysis than from the use made of it.[66] Coordinating *all-source* information in a form which makes it accessible to, and usable by, policymakers, whilst at the same time giving appropriate weight to dissenting opinions, is the intelligence equivalent of squaring the circle. So far, no fully satisfactory method for achieving this miracle appears to have been devised. Yet national intelligence assessments should be interdepartmentally agreed assessments with a broad governmental perspective that cuts across ministerial boundaries. The British Joint Intelligence Committee may be such an assessment system.[67] With all its faults − notably the tendency for blandness that invariably results from the quest for consensus − it might be better than the US President's NSC at coordinating assessments by intelligence services, State, Defence and Treasury Departments representatives, resolving turf battles, and gaining the confidence of top policymakers.

Inevitably, intelligence is an activity where at times there will be the temptation, and perhaps even the need, to transgress the conventional limits of moral or legal conduct in the hope of achieving some greater aim. Though this may be justified on occasions, it is natural that there should be misgivings by others who may be unaware of what is at stake. And there have been occasions in which the zeal of intelligence officers has led them into actions that may be prejudicial to some wider interests. Since the secrecy which surrounds the work of the intelligence services can produce temptations to act independently, there must be a clear *tasking system*, controlled on behalf of those for which they are collecting information. As a principle, no intelligence operations should be conducted, unless there is an agreed requirement.

Generally, the greater the ministerial interest in, and attention to, the work of the intelligence service exists and develops, the more intimate the service will become with the conduct of the daily business of the government and the more the service will be subject to checks and balances. However, this by itself is not sufficient. The services must have assurance of the legality of the actions they take.

Intelligence services need a *statutory regime* which arranges the authorization of the ways in which they collect intelligence so as to ensure that *issues of necessity* and *proportionality* are properly considered ahead of the event. The most intrusive of these methods should require the minister's signature. In some countries the role of authorization falls to the judiciary. Nonetheless, the executive is bound to be in a better

[65] Lowenthal, Mark M. 2003. *Intelligence. From Secrets to Policy*. Washington D.C.: CQ Press; pp. 139-152.

[66] Travers, Russ. 1997. A Blueprint For Survival: The Coming Intelligence Failure. *Studies in Intelligence*. No. 1; pp. 35-43. And: Betts, Richard K. October 1978. Analysis, War and Decision: Why Intelligence Failures Are Inevitable. *World Politics*. Vol. 31, no. 1; pp. 61-89. And Betts. Spring 1998. Intelligence Warning: Old Problems, New Agendas. *Parameters*. Vol. 28, no. 1; pp. 26-35.

[67] Herman, Michael. October 1995. Assessment Machinery: British and American Models. *Intelligence and National Security*. Vol. 10, no. 4; pp. 13-33. And: Lowenthal. op. cit. p. 154.

position to determine what should be the policy to adopt on internal and external security, and national defence than a tribunal, no matter how eminent.

Just as the principle or doctrine of minimum force should govern the exercise of military power, so should minimum trespass operate in the intelligence field. It should govern the actions of external intelligence in gathering information on foreign powers, and must govern the activities of internal intelligence and security services in trespassing on the privacy of individuals and of civilian organizations. Conversely, supervision should infringe as little as possible on the rights of an intelligence service in maintaining the necessary confidentiality regarding that organization's activities.

One of the main tasks of executive control and accountability is to make sure that the intelligence services function properly: that they ask the right questions, collect the right information, respond to the decision makers' needs, are rigorous in analysis, and have on hand the right operational capabilities.[68] Of particular importance is that executive control and supervision has to identify intelligence failures and take action to prevent them from occurring in the future.

The source of executive control should be either the president or the prime minister, since they are ultimately responsible for the integrity and security of the state and for related intelligence matters. There are practical reasons why these, the ministers responsible, or the National Security Council, might not be able to give full attention to all of the control, supervisory and accountability tasks. Hence, governments in democracies will normally appoint individuals or establish committees or boards mandated with control and supervision of intelligence activities.[69] Individuals can be appointed as Inspector General, Controller, Efficiency Advisor, etc., who report to the president, the prime minister or minister. Best practice is to have an independent statutory Inspector General for each of the intelligence services who may also be required to make reports to the legislative oversight committees.

Committees or boards can be established, sometimes with jurisdiction extending across the entire intelligence community, who ideally report to the president, the prime minister, or the ministers responsible, or alternatively to the National Security Council.[70] These can be composed of members from outside the government, who are employed on the basis of their ability, knowledge, diversity of background and experience. However, no member should have any personal interest in, or any relationship with, any intelligence agency. These could be united in a *National Intelligence Council*, mandated with coordination and control. Some countries have separate committees for *intelligence supervision* and for *policy review* to scrutinize performance and policy of intelligence services.[71]

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[68] Lowenthal. op. cit. pp. 153-155.

[69] Idem.

[70] Lowenthal, op. cit. p. 154: "Outside of the intelligence community itself, the NSC Office of Intelligence Programs is the highest level organization within the executive branch that provides day-to-day oversight and policy direction of intelligence",

[71] So the US: e.g. with the President's Foreign Intelligence Advisory Board.

The mandate of an *intelligence supervisory board* can be to:

- Periodically review the internal guidelines of each service concerning the legality or propriety of intelligence activities.
- Periodically report on its findings and any activities that raise serious questions of legality or propriety.
- Forward to the attention of the Attorney General reports received concerning activities in which a question of legality has been raised.
- Conduct such investigations of the intelligence activities of the services as it deems necessary to carry out its functions.

The mandate of a *policy review committee* can be to:

- Establish requirements and priorities for intelligence.
- Review the intelligence program and budget proposals and report to the government, the minister or the prime minister on whether the resource allocations for intelligence correspond with the intelligence requirements of the government.
- Promote collaboration between the services and provide checks and balances within the system.
- Conduct periodic reviews of intelligence products, evaluate the quality of the product, develop policy guidance to ensure quality intelligence and to meet changing intelligence requirements.
- Make recommendations on intelligence matters and to submit an annual report.

These review bodies are limited to specific mandates in carrying out their work. Since security considerations impose limits on the extent of legislative scrutiny of intelligence services, it is especially important for the ministers concerned to have the information and the support they need so as to adequately dispatch their fundamental democratic responsibility and accountability. To this end, ministers have to provide policy direction, authorize sensitive operations, be appropriately informed of performance, and to have an assurance, either from internal or external review mechanisms, that operations remain within the prescribed legal and operational policy limits. Furthermore, if ministerial direction is to be meaningful, every effort has to be made to ensure timely approvals.[72]

Audit is another important part of executive control. An external audit serves three purposes in terms of accountability: Firstly, to assess compliance with the law, ensuring that those given executive authority exercise this authority in accordance with

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[72]   Operations of many intelligence services are all too often affected by a lack of timely decisions. See: Whitaker, Reg. April 1992. The Politics of Security Intelligence Policy-Making in Canada: II 1984-1991. *Intelligence and National Security*. Vol. 7, no. 2; pp. 53-76.

their assigned responsibilities. This involves reviewing behaviour, identifying poor administration and those who should be held accountable. The second purpose of auditing is to assess performance in public management in order to contribute to organizational learning. The third purpose is compliance auditing, which involves scrutinizing accounts to see if money has been spent as allocated and to assess the efficiency and effectiveness of financial allocations. In democracies, an external audit of the accounts is normally done by the Auditor General or the National Audit Agency.

A mostly undervalued, if not totally forgotten, aspect of control is that which results from international cooperation with foreign intelligence services. Foreign services are in a privileged position to judge the performance, value, reliability and credibility of the cooperating intelligence services. If the latter were repeatedly caught in blatantly slanting intelligence and evaluations, or in inflating a threat to serve particular ends, they would probably not be asked again for contributions, advice, or cooperation. Retaliation would follow by reducing the *'do ut des'* exchange to lower grade intelligence. While a significant amount of self-discipline is already built into inter-national cooperation, executive control could profit from the feedback given by collaborating foreign intelligence services on their evaluation of the intelligence exchange and the value of cooperation.

Also, intelligence services personnel who have a strong inclination to do the right thing, and whistleblowers − individuals who report on unlawful activities that have transpired within the services − can act as internal controls.[73]

Legislative Oversight

The term *oversight* describes a system of accountability in which those vested with executive authority in an organization have their actions reviewed, sometimes in advance, by an independent group that has the power to check those actions. To be truly democratic, political control must involve accountability to democratically elected representatives − that is to parliaments.[74] The legislature is elected to represent the

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[73] In the US, the Intelligence Community Whistleblower Protection Act became law in 1998. The Act established procedures by which intelligence community employees may report a complaint or urgent concern. They must first do so through channels in the intelligence community but are free to inform the Intelligence Oversight Committees if the community has taken no action by a specific time. Even then, the employees must inform executive branch officials that they are going to Congress and must handle their information in accordance with proper security procedures.

[74] See: Assembly of Western European Union. 4 December 2002. *Report: Parliamentary oversight of the intelligence services in the WEU countries – current situation and prospects for reform*. Paris: WEU. Document A/1801. Also: Jackson, William H. Jr. July 1990. Congressional Oversight of Intelligence. Search for a Framework. *Intelligence and National Security*. Vol. 5, no. 3; pp. 113-147. Also: Johnson, Loch K. The U.S. Congress and the CIA: Monitoring the Dark Side of Government. *Legislative Studies Quarterly*. Vol. 5; pp. 477-499. And: Sturtevant, Mary. Summer 1992. Congressional Oversight of Intelligence: One Perspective. *American Intelligence Journal*. Vol. 13, no. 3; pp. 17-20. And: Van

people, and to ensure government by the people under the constitution. It does this by balancing security and liberty, in part by providing a national forum for public consideration of issues, by passing legislation, and by scrutinizing and overseeing executive action. In all aspects of government and expenditure of public money, parliaments have an essential role in monitoring and scrutinizing policy and budgets. The budget represents the culmination of intelligence requirements and, at the same time, it represents the contribution required from the taxpayer − the electorate at large to whom parliamentarians are most directly responsible. Though legislative oversight is policy-related and, in theory, unlimited, the choice is not between executive or legislative sovereignty over intelligence. The challenge is to use the best attributes of both branches in the service of the nation's security.[75]

Few members of parliament have expertise in national security or intelligence matters at the time they are elected. Those in the executive branch, by contrast, have been selected for their positions precisely because of their expertise in some aspects of national security affairs. Hence, any arrangement that removes the ultimate responsibility for accountability for the conduct of government business from ministers in parliament would be a mistake. To substitute somebody else as the final arbitrator of what should happen is quite simply wrong.

The role that parliament can play in the development and implementation of national security policy can be grouped to four tasks: (1) *oversight*, (2) giving *a second opinion*, (3) ensuring *transparency*, and (4) providing *a link between intelligence and society* at large.

Oversight is a function of a legislature which flows from the separation of powers and is the power to hold the executive accountable.[76] Monitoring the implementation of legislation goes to the heart of the oversight role. But oversight is a process, not an event. It should be both proactive and reactive: proactive in anticipating issues; reactive to initiate hearings and inquiries when problems or scandals occur, and to determine whether legislation is effective and having the desired results. It should also ensure that the laws give other branches of government and civil society sufficient powers to supervise intelligence activity.

Parliamentary *oversight of intelligence* involves two elements: holding the government accountable for the intelligence *funds* it requires and for *the way it spends these funds*, in other words, ensuring that the intelligence resources are used in the most efficient and cost-effective manner; and influencing the *development and*

Wagenen, James S. 1997. Critics and Defenders: A Review of Congressional Oversight. *Studies in Intelligence*. No. 1; pp. 97-102.

[75] Knott, Stephen. Spring 2000. The Great Republican Transformation on Oversight. *International Journal of Intelligence and Counterintelligence*. Vol. 13, no. 1; pp. 49-63.

[76] But see: Robertson, K. G. Summer 1998. Recent Reform of Intelligence in the United Kingdom: Democratization or Risk Management. *Intelligence and National Security*. Vol. 13, no. 2; pp. 144-158. Also: Gill, Peter. April 1996. Reasserting Control: Recent Changes in the Oversight of the UK Intelligence Community. *Intelligence and National Security*. Vol. 11, no. 2; pp. 313-331. U.S. Senate Select Committee on Intelligence. *Legislative Oversight of Intelligence Activities: The U.S. Experience*. 1994. Report, 103rd Congress, 2nd Session. Washington D.C.: GPO

implementation of intelligence policy. The degree to which parliaments achieve both accountability[77] and influence varies widely, depending on the strength of their parliamentary processes. All parliaments hold their governments accountable in the sense that parliament must approve the funds required by the executive − in terms of the amount budgeted, and in terms of the distribution of spending within the budget. But intelligence is not just another form of public expenditure. Because it is intelligence, it brings with it certain inherent problems that can restrict and hamper the involvement of the entire parliament. This is why in most democracies *special oversight committees,* either of both houses or as a single *ad hoc* body normally of a small group of legislators, exist for intelligence services, and are set up as sub-committees, special or select committees.

These *special* or *select committees* have various powers of information and scrutiny allowing them to supervise the activities of their government in this field.[78] None have powers comparable to those of the US Congress. Next to tight control over the budget, hearings – requesting information from responsible officials and obtaining alternative views from outside experts − constitute together with the following six powers the levers essential to the US legislative oversight process: (1) to confirm or reject nominations; (2) to advise and consent to an act of treaty[79] ratification; (3) to levy reporting requirements on the executive; (4) to investigate – a power serving as effective tool exposing shortcomings and abuses, offering recommendations for change, and in helping craft new policy directions; (5) to withhold action on issues that are important to the executive; and (6) to get prior notice of *covert action*.[80]

Parliamentarians have a strong sense of what the people will support, and some have a considerable amount of foreign policy expertise. In a few countries they are even users and consumers of intelligence products, notably in the US.[81] Thus, parliament can provide a second opinion, carefully tendered in the executive − closed − sessions of the oversight committees. On sensitive matters which can involve great costs and dangers for the nation, a second opinion can be vital.

Another important aspect of the oversight committees' work is that through their debates, hearings and reports legislators can make intelligence more transparent,

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[77] Johnson, Loch K. January 1997. The CIA and the Question of Accountability. *Intelligence and National Security*. Vol. 12, no. 1; pp. 178-200. And: Johnson. Spring/Summer 1995. The Evolution of CIA Accountability. *American Intelligence Journal.* Vol. 16, no. 1; pp. 43-46.

[78] Leigh, Ian. 2002. The UK's Intelligence and Security Committees. Paper presented at the Workshop on Democratic and Parliamentary Oversight of Intelligence Services, 3rd–5th October 2002, organized by the Geneva Centre for the Democratic Control of Armed Forces.

[79] The ability to monitor adherence to treaty provisions can be a mission for intelligence.

[80] Lowenthal. op. cit. pp. 155-173.

[81] McCullough, James. Spring 1998. Commentary on 'Congress as a User of Intelligence'. *Studies in Intelligence*. pp-71-74. At: http://www.cia.gov/csi/studies/spring98/mccullou. html. And: Snider, Britt L. Spring 1998. Sharing Secrets with Lawmakers: Congress as a User of Intelligence. *Studies in Intelligence*. At: http://www.cia.gov/csi/studies/spring_98/ Congress.html Also: Glennon, Michael J. 1998. Congressional Access to Classified Information. *Berkeley Journal of International Law*. Vol. 16, no. 1; pp. 126-137.

and thus more visible to the public.[82] Although the proceedings of the committees are generally secret, much of the information is disclosed to the public through annual reports. Public support is best achieved by free and informed discussion of intelligence issues in general which in turn necessitates a substantial degree of openness and transparency. Openness should be encouraged whenever possible. What can be disclosed to the public, however, will necessarily depend on the circumstances. The role of the committees is *to balance security and liberty*, and care must be taken that disclosure does not damage the ability of intelligence services to accomplish their mission. Moreover, information that is required for national security purposes is highly specific and often cannot be divulged in advance or subjected to frequent public debate. Neither can intelligence services be controlled too meticulously, since this would hamper their operational efficiency. Thus, in most countries, openness has not always been easy to achieve. As a subject, intelligence lends itself to secrecy and exclusivity. The provision of adequate information has often been limited for reasons of national security, and open debate by a tendency to believe that intelligence affairs are best left to professionals. Reasons of national security will continue to be used to restrict information, but less often and with less justification than during the Cold War. In addition, more transparency can also be achieved through questions put to the ministers responsible for intelligence services.

Parliament, moreover, has a role to play by providing a link between the services and the public at large.[83] An intelligence oversight committee's authority is a constant reminder for the intelligence services to perform their task correctly and assures the public members of the committees that the services are not left to their own devices. The nature of intelligence limits the information that can be provided to the public. As representatives of the public, the parliamentary oversight committees need access to secret information. Thus, they should have the right to request reports, hearings and conduct investigations to expose shortcomings or abuses. As a general rule, intelligence services should, under such procedures as the president or the prime minister may establish, including those conferred by law upon the executive, legislature and judiciary to protect sources and methods:

- Keep the oversight committees fully and currently informed of their intelligence activities, including all significant anticipated activities.
- Upon request, provide the oversight committees with any information or document in the possession, custody or control of the service.
- Report in a timely fashion to the oversight committees information relating to intelligence activities that are illegal or improper, and corrective actions that are taken or planned.

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[82] Gill, Peter. January 2003. *Democratic and Parliamentary Accountability of Intelligence Services after September 11th*. DCAF Working Paper No. 103. At: http://www.dcaf.ch/publications/Working_Papers/103.pdf

[83] Born, Hans. May 2002. *Democratic and Parliamentary Oversight of the Intelligence Services: Best Practices and Procedures*. DCAF Working Paper No. 20. At: http://www.dcaf.ch/publications/Working_Papers/20.pdf

In order to be able to perform their task, the members of parliamentary oversight committees must have the trust of both the intelligence services and the public. Ideally, the committees should bring a perspective to the oversight function that is not replicated by the control and review bodies within the executive branch.[84] Furthermore, oversight should not become so burdensome and intrusive that it is having a negative effect on intelligence operations. Since all too often legislative oversight tends towards micro-management of executive decisions, the parliament's oversight committees must not have the authority to direct the intelligence services to initiate certain investigations or to pursue certain cases. The question of which persons, groups, events, and activities to investigate is an executive branch decision. Moreover, the committees are political bodies:[85] subject to political expediency and to overreact. Thus, the members should have a responsibility to avoid any overreaction in times of crisis, and the intelligence services should have a responsibility to retain their focus on their missions and not be pushed by the committees into following new objectives.

Another critical issue of legislative oversight is the *balance between independence and criticism* on the one hand, and the *maintenance of a working relationship* between the committees and the intelligence services on the other hand. Intelligence is one of the only areas of government activity where risk-taking and innovative thinking, within the confines of applicable law and policy, should be encouraged. It is a domain that relies heavily on the professional judgment and candour of the intelligence personnel. It is also an area highly dependent upon the cooperation of other agencies, foreign governments, and individuals. What the overseers do in public has an effect beyond the circumstances of a particular inquiry or investigation. While the committees are naturally eager to demonstrate that their oversight is effective, they must always be aware of the inherent danger that their statements and actions might distort the public's perception of intelligence, create an unfavourable impression among potential sources, agencies of cooperation, foreign services and governments, and undermine the morale of intelligence personnel. Thus, legislative oversight has to be determinedly non-partisan and discreet, and hearings should be fair. The oversight committees should be more inquisitorial than adversarial. And they should broaden the range of oversight beyond the intelligence services to the users of intelligence.

Access to information will increase as confidence grows. True, there always looms the danger of leaks.[86] However, experience shows that if the members are trustworthy, services will be honest and frank with them. Hence, those mandated with the oversight have to make it clear that they can be trusted with sensitive information and can produce reports that are thorough, focused and rigorous, yet in no way

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[84] See: *IPU and DCAF - Parliamentary Oversight of the Security Sector. Principles, mechanisms and practices.* 2003. Handbook for parliamentarians, No. 5. Born, Hans, ed. and Lead Author. Geneva/Belgrade: Goragraf; 190 pp. Available at http://www.dcaf.ch/oversight/proj_english.cfm?navsub1=12&navsub2=3&nav1=3

[85] Ott, Marvin C. Spring 2003. Partisanship and the Decline of Intelligence Oversight. *International Journal of Intelligence and Counterintelligence*. Vol. 16, no. 1; pp. 69-94.

[86] Hyde, Henry J. 1988. Leaks and Congressional Oversight. *American Intelligence Journal*. Vol. 9, no. 1; pp. 24-27.

compromising to the nation's security. Though it is the nature of oversight that parliamentary as well as inquiry commission reports are generally negative where executive agencies are concerned,[87] parliamentary oversight ought to ensure that a balanced picture is presented to the public, giving credit where credit is deserved and defending intelligence services where their performance has been inaccurately portrayed or their integrity unfairly maligned. Intelligence services cannot credibly defend themselves.[88] At the same time the committees must avoid becoming the advocate for intelligence services.

The question of competence is more complicated. By its very nature, intelligence is governed by qualities that are unique and are not easily comprehended by outsiders. For some parliamentarians, membership of the intelligence oversight committee is not attractive, because it offers generally less opportunities for public profiling. Others seem 'somehow afraid of taking over greater responsibilities and thus also increased risks'[89] − wary of consenting to operations that might prove embarrassing and fearing that should a new intelligence scandal occur, they could take equal blame for it.[90]

Parliamentary involvement with intelligence is also affected by the nature of parliamentary work. Competing pressures and responsibilities mean that few legislators can devote the time needed to give them real intelligence expertise. If members are appointed for fixed terms, they often have to rotate off the committees at the very point they have begun to master the complex subject matter. Knowing that their tenure is limited, some use their time on other committees. As a consequence, an unfortunate loss of expertise and continuity occurs, weakening the effectiveness of the committees. Thus, some countries do not limit committee membership by fixed terms of tenure and assign new members to fill spaces resulting from normal attrition. Others, who believe that allowing more members to serve on the committees through a system of rotating assignments would increase the understanding of the intelligence mission in both houses, opt for more reliance on well-qualified staffs and assistance by investigators

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[87] See: The 9/11 Commission Report. Final Report of the National Commission on Terrorist Attacks upon the United States. 2004. New York, London: Norton & Company. Or: Commission on the Intelligence Capabilities of the United States Regarding Weapons of Mass Destruction. Report to the President. 31 March 2005. At: http://www.wmd.gov/report/report.html

[88] One element of the French approach to legislative oversight: …il est nécessaire de prévoir des dispositifs de protection, non seulement des informations vitales pour la sûreté de l'Etat, mais aussi des hommes qui les servent dans des conditions difficiles, voire dangereuses ….Les services ont par ailleurs besoin de reconnaissance, il faut les valoriser… See: Denécé, Eric. Mars 2001. Le contrôle parlementaire des services de renseignement. Interview d'Arthur Paecht, député du Var, vice-président de la Commission de la Défense et des Forces armées à l'Assemblée nationale. Paris: L'Harmattan. *Renseignement & Opérations Spéciales*, No. 7 ; p. 24.

[89] Haering, Barbara. 2002. Investigating the Strategic Intelligence Service of Switzerland. Experiences of a Parliamentarian. Paper presented at the Workshop on Democratic and Parliamentary Oversight of Intelligence Services, 3rd–5th October 2002, organized by the Geneva Centre for the Democratic Control of Armed Forces. p. 6.

[90] Lowenthal, op.cit. pp. 167-169.

with wider access to intelligence. Whatever the preferences: while the right of the political opposition to participate in oversight should be laid down, it is a good rule that committee members should be appointed by the leadership of both houses of parliament, rather than by their respective party structures. A background security check should be made on them before they are appointed, and they should take an oath to keep secrecy.[91]

Experience shows that over time, intelligence services come to appreciate what the committees expect, and the committees will appreciate the concerns of the services and be willing to accommodate them. The champions of oversight want reliable safeguards to preserve liberty; its critics seek more effective secret operations to shield the nation from enemies at home and abroad. The rub comes from this obvious conclusion: a modern democratic state wants and deserves both civil liberties and a shield against foreign dangers. So, the search continues to find the right formula for power sharing in this most difficult of government domains − knowing full well that no formula exists, only the hope that in a spirit of comity, parliament, the executive, and the judiciary will continue in their quest for a *modus vivendi* in which liberty and security are taken into account.

Judicial Control and Supervision

Law must regulate intelligence activities and establish procedures to guarantee its proper execution, protection and transparency. Without a legal framework, legislative oversight, executive control, and judicial supervision would have no reference point, and their work would not make any sense. The independence of these three branches of government from one another dramatically strengthens the functioning of their various supervisory roles.[92]

Judicial control and supervision is limited in comparison to '*unlimited*' legislative oversight.[93] It deals with legal issues, as opposed to policy issues. The judiciary reviews and interprets the constitutionality of all laws. Its role in controlling intelligence is modest, but from time to time can be significant when the conduct of intelligence activities is reviewed. The very fact that intelligence activities could be subject to an independent court review creates a type of *anticipatory control*. Though the judiciary is more deferential to the executive branch in intelligence matters, judicial control can act as arbiter of government secrecy in powerful ways.

Government secrecy in a liberal democracy is generally undesirable. It can destroy the legitimacy of government institutions and can cripple the accountability of politicians and public servants. It can hide abuses of the fundamental rights of the citizen. Secrecy within governments tends to excess. Judicial control has to counterbalance the swing toward such excess and it must improve the problems of

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[91]   But see also Lowenthal, op. cit. p. 162.
[92]   Manget, Frederic F. 1996. Another System of Oversight: Intelligence and the Rise of Judicial Intervention. *Studies in Intelligence*. Vol. 39, no. 5; pp. 43-50.
[93]   Idem.

government secrecy by providing a secure forum for review of intelligence activities under a number of laws, as surrogates for the public.

Intelligence services are not above the law − and penalties must be provided to the law. If there are no enforcement measures for accountability, there can be no democracy. Under the rule of law, the activities and functions of intelligence services cannot extend beyond those that are necessary for protecting the democratic, constitutional order. The constitutional order includes the catalogue of fundamental freedoms and rights and effective measures to protect those rights against any violations. No intelligence service can arbitrarily threaten these rights and freedoms; if it does, it threatens the constitutional order instead of protecting it.

Thus, in democracies, 'best practice' is that intelligence services consider themselves to be bound by the Constitution and laws of the country − including treaty obligations and other international agreements entered into by the state − in the same way as they are bound by executive orders, guidelines, and numerous ministerial or agency directives. A 'good practice' is to establish guidelines for *internal intelligence*, ideally approved by the Attorney General, that govern the collection, analysis, and dissemination of information on citizens and aliens admitted for permanent residence in the state. Another 'good practice' is to have guidelines for *external intelligence* that limit the use of personnel from humanitarian organizations, such as the ICRC or national Red Cross organizations, those engaged in humanitarian aid and development, as well as the use of clergy, media personnel, and academics[94] for operational purposes.

In democracies, intelligence services are normally prohibited by law from having any police, *subpoena*, or law enforcement powers. Moreover, as a 'good rule', a court order, ideally from a special court, is regularly required before intelligence services can carry out electronic surveillance and physical searches for any external intelligence or counterintelligence purposes within the country. By following this practice, the court must be persuaded that the target of investigation is a threat to the security of the state, and that other techniques have been useless in gaining the necessary information.[95]

Another 'best practice' is to make sure that particular measures employed to acquire *internal* intelligence, apart from being responsive to legitimate governmental needs, will be conducted in a manner that preserves and respects established concepts of privacy, civil liberties, and civil rights. It is here that supervision is most necessary. There is a need for protecting human rights and other liberties of citizens who are suspects while at the same time establishing protection against grave dangers to other citizens who are likely to be victims. Judicial control has to set limits intended to achieve the right balance between protection of individual rights and acquisition of essential information. Thus, collection procedures established are normally approved by the highest judicial authority, generally the Attorney General. Such procedures

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[94]   Hulnick, Arthur S. Winter 1986-1987. CIA's Relations with Academia: Symbiosis Not Psychosis. *International Journal of Intelligence and Counterintelligence*. Vol. 1, no. 4; pp. 41-50.

[95]   Sandberg, Justin M. Winter 2002. The Need For Warrants Authorizing Foreign Intelligence Searches of American Citizens Abroad: A Call For Formalism. *The University of Chicago Law Review*. Vol. 69, no. 1; pp. 403-427.

ensure that information is collected by the least intrusive means possible, and limit the use of information to lawful governmental purposes.

Moreover, operations by the *internal* intelligence agency may be subject to judicial examination by a tribunal after the event, to investigate complaints about the service by members of the public, and to review the warrants issued by the minister. 'Best practice' here is that judges have full access to classified information, as long as the information is relevant to the question of guilt or innocence in the given case. That implies that claims to secrecy need to be supported by a justification of why it will be harmful to have the information disclosed.

For judicial control and supervision to be effective, the Attorney General should:

- Receive and consider reports from the services.
- Report to the ministers responsible, the prime minister or the president in a timely fashion on any intelligence activities which raise questions of legality.
- Report to the ministers responsible, the prime minister or the president on decisions made or actions taken in response to reports from the services.
- Inform the ministers responsible, the prime minister or the president about legal opinions affecting the operations of intelligence services.
- Establish or approve procedures for the conduct of intelligence activities. Such procedures ensure compliance with law, protect constitutional rights and privacy, and make sure that any intelligence activity within the state or directed against any citizen is conducted by the least intrusive means. The procedures can also ensure that the use, dissemination and storage of information concerning citizens which is acquired through intelligence activities, is limited to that necessary for the achievement of governmental purposes.

In addition to the policy restraints on their activities, intelligence services and their employees are subject to the judicial process. Like other government agencies and employees, they can be sued for actions undertaken during the course of their official duties. Though it is rare in most countries for an individual who has acted in the interest of protecting national security to be prosecuted for violating the law: those who violate laws and policies can be held liable, be *subpoenaed* in civil and criminal cases, or subjected to administrative sanctions, and they must produce information when ordered to do so by the courts.

A different and weaker form of judicial oversight can be established by allowing intelligence services' staff to go to employment tribunals. The establishment of the office of Ombudsman for the protection of civil rights may also be an effective tool for controlling the services.

Informal and Indirect Supervision by the Public

Civil society organizations − NGOs, lobbies, pressure and human rights groups, political parties, professional, cultural, and other advocacy or special interest associations − and the media, can perform a useful supervisory function of intelligence services. Supervision by the public can help ensure that the objectives of an intelligence service are beneficial for the society as a whole,[96] rather than for a specific political party or an elite group of individuals. Mobilizing civil society actors is one way for accountability institutions to strengthen their position vis-à-vis the political executive.

Since a well informed citizenry helps to make the government responsive and accountable, a structural factor that may facilitate supervision and transparency is the possibility that information about intelligence activities becomes available after a certain period of time, such as through 'freedom of information' legislation and rules on release of classified materials after a set period of time. This possibility of *delayed transparency* may facilitate democratic control. Hence, declassification of documents is important, because if documents are not made public, civil society has few other mechanisms for supervising the intelligence services. In the US and in Canada, where intelligence agencies − like other government agencies − are subject to the Freedom of Information Act,[97] media and citizens groups use such rights to examine areas of government activity that have long been immune from public scrutiny. The success of NGOs in helping to pass legislation on access to information is evidence of the powerful role civil society can play in supervising intelligence services.[98]

It is very important that the threats to the country are outlined in a concrete way, and that the public is educated about these threats. This will result in an increase in public support for intelligence services, as well as greater control and supervision.

Civil society organizations can play a role in articulating the demand for an accountable government and can draw public and political attention to infringements of civil liberties and human rights. Lobbies, advocacy and special-interest groups can serve to educate and inform the public, and to challenge or support government policy decisions. It is important that civil society groups build efficient institutions that work to consolidate democracy. Though consensus-building in civil society can be very

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[96] Vitkauskas, Dovydas. June 1999. *The Role of a Security Intelligence Service in a Democracy*. Chapter III, Opening up to the public scrutiny. Brussels: NATO. Democratic Institutions Fellowship Programme. pp. 49-51

[97] Certain operational files of the CIA are exempted by law from the requirements of the Freedom of Information Act to search for records in response to a request from the public. Information classified pursuant to Executive Order is exempted by the Act from disclosure and, since most information held by intelligence agencies is classified, relatively little substantive information concerning intelligence activities is released under the Act.

[98] Banisar, David. 2002. Freedom of Information: International Trends and National Security. Paper presented at the Workshop on Democratic and Parliamentary Oversight of Intelligence Services, 3rd–5th October 2002, organized by the Geneva Centre for the Democratic Control of Armed Forces.

challenging at times, an increase in consensus and cooperation, particularly between political parties, is beneficial to the country.

Human rights organizations can effect change to intelligence services through providing victims of internal intelligence and security services with access to information from security files,[99] through litigation, the drafting of new laws, and efforts to educate the public about intelligence issues. While they should stay informed about intelligence and civil liberties issues and monitor changes in the laws, so that they can assert pressure on parliament, human rights groups also have a responsibility to educate the media about the complexities of intelligence issues, urge them to cover public debates and produce in-depth articles and commentaries that can enhance public understanding and awareness about intelligence.

The role of the media is more controversial. Generally, informal supervision they may exercise tends to occur mainly through the lens of scandal. All too often they make great play with intelligence leaks, whistle blowing and failures, while remaining thrilled by secrecy. Through their capacity to reveal illegal activities and abuse of power, electronic and print media can shape public opinion and draw the attention of actors controlling the more formal mechanism of control and accountability.[100] When internal control does not check questionable behaviour, and external control does not identify and challenge it,[101] investigative journalism can serve as a sort of *unofficial opposition* or *fall-back accountability mechanism*. However, unless media personnel is specialized in intelligence and security issues, there is always also the danger of sensationalism and personalization of intelligence issues. Moreover, examples abound where the media behaved in a manner that has not so much been deferential as irresponsible.[102] Albeit few, there are times when the media should show restraint in the national interest.[103] On the other hand, there are also cases where the media are

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[99] As happened in Poland, Germany (in the former GDR), and other East European countries. See: Majtény, Làszlo. 2002. Reconciliation and Developing Public Trust: Opening State Security Files to the Public. Paper presented at the Workshop on Democratic and Parliamentary Oversight of Intelligence Services, 3rd–5th October 2002, organized by the Geneva Centre for the Democratic Control of Armed Forces.

[100] See the Papers presented at the Conference on "The Role of the Media in Public Scrutiny and the Democratic Oversight of the Security Sector", held in Budapest, 6th-8th February, 2003, organized by the Geneva Centre for the Democratic Control of Armed Forces. At: http://www.dcaf.ch/Media_Budapest0203/ws_papers.htm

[101] Unlike in most other democracies, in terms of intelligence, the British government can enforce prior restraint on the publication of articles deemed injurious to national security.

[102] See the 'Baltimore Sun' series of articles about the activities of the US National Security Agency's activities, which, finally, gave rise to expanded interests in, and complaints about ECHELON by the EU.

[103] There are cases in the past where US media have come upon intelligence activities and agreed not to report about them for the sake of national security. Thus, reporters discovered Cuban exile training camps in Florida prior to the Bay of Pigs affair. Media also learned about the construction of the '*Glomar Explorer*', built by the Hughes Corporation for the CIA to retrieve a sunken Soviet submarine in the Pacific. In this case the secret was kept but for one year and then blown by the '*Los Angeles Times*' in 1975.

misused as instruments for the proliferation of slander or disinformation campaigns through 'information' or 'products' originating from intelligence services.[104]

Just as ethics and morals change in other areas, so too they change in the media. Intelligence services are enclosed by both real and figurative walls, as daunting for journalists as for scholars and other outsiders. Expectations that the media will be able to break down these walls with any frequency is unrealistic, nor would most citizens want the nation's secrets to be so easily breached. Yet, despite many obstacles to media supervision of intelligence, there are always some reporters who will report to the public − and to parliament − providing more information than the intelligence services would wish to have disclosed, which editors will happily highlight on television or print on their front pages. In our present times of 'investigative journalism', it is difficult to imagine that many reporters or media outlets would be willing to suspend publication or drop a story entirely on imagined or suspected scandals involving intelligence. Thus, leaks, and the ever more common erosion of security discipline, whilst regrettable, might make media supervision increasingly feasible by transferring disclosure authority to the newsroom.

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[104] See: Zybertowicz, Andrzej. 2002. Transformation of the Polish Secret Services: From Authoritarian to Informal Power Networks. Paper presented at the Workshop on Democratic and Parliamentary Oversight of Intelligence Services, held in Geneva 3rd-5th October 2002, organized by the Geneva Centre for the Democratic Control of Armed Forces.

Chapter 13

Parliaments and Defence Procurement

Dr. Willem F. Van Eekelen

Introduction[1]

The acquisition of defence equipment has many characteristics of its own, which sets it apart from other sectors of government procurement. No other purchases are as much in the public eye and raise so much debate inside and outside parliament. Obviously, most interest centres around large purchases, such as a new type of aircraft or battle tank or a new series of naval vessels. Hundreds of smaller contracts pass relatively unnoticed. Nevertheless, defence buys generally are subjected to a kind of scrutiny and monitoring, which is absent from large contracts in the civilian sector.

The reasons are manifold. The defence market is monopsonic, which means that there are different suppliers, but only one buyer. Police, coast guard and private security companies may enter part of the market, but for major weapon systems the only customer is the ministry of defence. Consequently, industry becomes vulnerable to changes in defence planning, as it will be difficult to find alternative outlets for its products. With shrinking defence budgets and the consequent thinning of the market for defence equipment, the number of companies active in this field dropped and a process of consolidation set in, first in the US and later also in Europe.

Defence money is taxpayers money and its spending should benefit the national economy wherever possible. In many instances, jobs are at stake and politicians from the districts concerned will lobby for their creation or preservation. For smaller countries, which do not possess the full range of defence industries, co-production and compensation arrangements are important for retrieving at least part of their external expenditure.

Defence technology is important for the research and industrial base of the country. Over the years, the connection between defence and civilian technology has become closer. At first, the defence and space industry were leading innovation. Space

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[1]   This chapter is an abbreviated version of DCAF Occasional Paper No 5 by Willem F. van Eekelen, 'The Parliamentary Dimension of Defence Procurement: Requirements, Production Co-operation and Acquisition', Geneva: Geneva Centre for the Democratic Control of Armed Forces, 2005. Available at:
http://www.dcaf.ch/_docs/op05_parliamentary-dimension.pdf

technology was a powerful incentive for miniaturisation, which subsequently was taken over by developments in other fields of high tech and medical applications. Today, defence and military technologies and civilian industry are a two-way street, each benefiting from innovations in the other. The mobile telephone is a good example, where the civilian network could do just as well, or even better, than military systems, provided the relay stations remain operational in a crisis.

A substantial difference relates to secrecy. Characteristics of weapon systems should not become available to potential enemies, who could use them to counter their offensive capabilities or circumvent their defences. Secrecy applies to technical specifications on the military side, but also to industrial secrecy on the side of the suppliers. Sometimes weapon systems are sold to different countries with differing sets of technological sophistication, in order to protect the latest state of the art. The extent of technology transfer has become one of the most sensitive issues in foreign buys and international co-operation

Finally, technical expertise plays an important role in drawing up specifications and evaluating various industrial offers. From the point of view of transparency and democratic accountability, professional expertise is the most difficult to assess correctly. Although professional journals will contain many details of weapon characteristics, they might be biased and subject to rebuttal. A counter-expertise is not always possible and, in any event, likely to be costly. Therefore, decision-making requires a considerable measure of trust among all the parties involved, the political leadership, the professional military and the parliamentary committee which screens the planned acquisitions.

The Role of Governments

In defence procurement governments have a leading role. In each country the Government:[2]

- is the only national customer for defence equipment.
- accepts or denies the setting up of armaments activity on its national territory, and therefore has a decisive influence on any restructuring process of its defence industry, whatever the legal status of the companies is.
- is concerned with the security of supply, i.e. a foreign country's ability to guarantee the supply of military material sufficient to fulfil defence commitments of the buyer.
- selects the source of supply, which might be linked to security arrangements with other countries.
- determines market conditions by defining its military requirements and product specifications.

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[2]   Taken from the communiqué of the European Defence Industries Group of 23 April 1996, 'The European Defence Industry Views on the Communication from the Commission on the Establishment of a European Defence Domestic Market'.

- decides on the size and number of programs, the delivery dates and the rate of production. In each domain, there are long periods of time between programs, which makes it impossible to maintain research and design teams by purely commercial means during these long intervals.
- makes its procurement decisions dependent on the updating of its threat evaluation, which may lead to changing priorities in overall programming. These changes will have a disproportionate effect on the activities of the defence industry, which becomes unable to make reliable market forecasts as are normal in other industrial markets.
- requires from its suppliers commitments spread over many years for preliminary studies, development, production, in-service support and updates.
- has to fund, to a very large extent, the industrial costs of Research and Development, which are often larger than 30 % of total program costs and thus much larger than in other industrial sectors.
- approves the export of defence equipment. If in use by the national armed forces, marketing abroad obtains the advantage of a 'seal of good housekeeping,' often reinforced by direct governmental support in prospective buying countries

In addition, governments are in a position to decide whether they want to perform certain tasks themselves, or to outsource them to private companies. This applies primarily to logistic functions and maintenance, which often are privatised. In some countries, the reverse applies when subsidiaries of defence departments have production functions, which normally are left to industry.

The EDIG paper concluded that in all countries the strength of the defence industry depended on its national market. Since this market was shrinking as a result of the 'peace dividend,' the European industry had to restructure quite extensively, but by 1996 had done so mostly on a national basis. EDIG argued that now it was vital to render further consolidation possible at the European level by organising a European Defence Domestic Market. National governments should adopt the necessary policies. Consolidation happened, however, almost in spite of governmental policies.

Resource Allocation

Most Western defence departments use methods of resource allocation based on American techniques pioneered in the 1960s and summarised as PPBS: planning, programming and budgeting system. Later, the element of assessment and evaluation was added. The value of the system was its proper differentiation of the different elements in the process, but also in the relationship between input and output, or more specifically the real resource cost of the inputs required to produce a specific military capability. In the PPBS terminology:

- a plan is a statement of what you firmly intend to do;
- a programme is a plan with time-lines attached;

- a budget is a programme with price-tags attached: what funds are needed and when.

In NATO countries, planning covered a period of 10 years, the first five years being firmer than the second, and the first year presented as a solid commitment in the Defence Planning Committee of NATO. Every year another year was added in a 'rolling forward' planning cycle. National ministries of defence needed about 15-22 months for their internal procedures before decisions are taken and published. They have to match the available financial resources with the military requirements.

In the UK, the Ministry of Defence annually produces a Statement on the Defence Estimates as a White paper, elucidating policy and giving an account of the activities of the armed forces in relation to their assigned roles and missions, a budget breakdown of defence management, and a summary of the national order of battle. The Statement is accompanied by a volume on defence statistics (including data on industrial and regional spending and payments to major contractors) and a Major Projects Statement giving progress reports on all equipment acquisitions in train, including important cost information. On the parliamentary side there are regular Committee Reports, notably from the House of Commons Select Defence Committee, addressing general policy themes, force structure issues and resources management. The House Select Committee is small and numbers only eleven members. It does not concern itself with a detailed scrutiny of the budget. The National Audit Office reports to parliament not only audit matters, covering the propriety and legality of MoD spending, but also on its efficiency and effectiveness.

In France, every five years a new military plan is developed and submitted to parliament, which adopts it as a *loi du programme*. It is discussed both in committee and in the plenary session of the *Assemblée Nationale*. Compared with the other parliamentary committees, the defence committees of both the assembly and the senate have extraordinary powers of cross-examination and hear not only the defence minister, but also the chiefs of staff of the four armed services and senior civil servants. The assembly committee carried out an extensive inquiry into the events surrounding the fall of the Srebrenica enclave in Bosnia and the involvement of French officers in the chain of command.

Once the elected representatives have given their approval, the amounts fixed in the law are supposed to remain firm commitments over the period. There is, however, some room for adjustment, as the *crédits de paiement* have to be voted annually. In 2003, a sub-committee of the defence committee was set up for scrutinising defence spending under the current budget, consisting of a dozen members who represent the various political groups in parliament. This *Mission d'information* meets quarterly, either at the ministry of defence or at the ministry of the budget. A first report was published in February 2004; the next one is expected early in 2005.

Germany probably receives the prize for the most detailed scrutiny of the budget – line by line – and equipment decisions. The federal budget is referred to the Budget Committee for deliberation and ultimately approved in the form of a law by the *Bundestag*. The defence committee has no formal competence with regard to the budget law, but in practice its recommendations, resulting from several days of

deliberations, are taken into account by the Budget Committee. The Defence Committee exerts great influence on the execution of the defence budget. The Minister of Defence is obliged to submit all procurement projects of special importance in terms of security or military policy to the committee, as well as all projects exceeding €25 mln. No procurement decisions have been implemented without the consent of the Defence Committee, even if they had been included in the budget law.

In Denmark, at the beginning of a new parliamentary period, the political parties try to conclude a 'political compromise,' determining the amount of defence expenditure during their legislature. In the Netherlands, at least every ten years, and recently more often, a '*Defensie Nota*' is submitted to parliament, giving the framework for defence planning for the subsequent ten years, but figures offer no firm commitments and budgets have to be approved annually.

A Model Sequence

Every procurement cycle will start with the determination of the operational requirement. Today, this is more complicated than during the Cold War, when the threat assessment was relatively unambiguous and undisputed. In those days, when the European members of NATO had the primary task of protecting a sector of the 'layer cake' defence of West Germany, it was clear what their sector needed to respond to a massive surprise attack from the Soviet Union and the Warsaw Pact. The threat could be quantified and so could the preferred responses. Today, the threats are different, often multidimensional, difficult to deter and to defend against, and responses cannot be limited to the military alone. Consequently, there is both a qualitative and a quantitative problem: what do we need, and how much of it? After the demise of the Soviet Union defence planners shifted from a threat-oriented to a capability-oriented approach. The present author believes that, with the appearance of new threats, the determination and organisation of the necessary capabilities will have to be linked to possible scenarios. Otherwise, action in crisis management will always be too late to prevent escalation and massive casualties.

Military requirements are the outcome of a process in which past experience, new strategic and tactical insights, technological possibilities and the capabilities of potential enemies all are taken into consideration. Operational research and war-gaming have become new tools. The process usually starts with the plans and policy section of the staff of the armed service concerned. Depending on the degree of integration of this staff, the other sections will be consulted. All too often this is a weak spot in the chain of developments and the link between the operational side of the house and the armaments directorate falls short of the permanent interaction it should be. Armament experts should be enabled to make their inputs, just like later on operational experience has to be involved in judging industrial offers and suggestions as well as possibilities for international co-operation, which might lead to changes in specifications or replacement schedules. Internal transparency is even more important than external transparency and neither side should be a closed empire.

In the NATO defence planning cycle the Supreme Allied Commanders formulated Force Proposals which contained an element of challenge to bring the

member countries to increase their efforts beyond what they originally had planned for. The multilateral examination of country plans in the NATO defence planning cycle was a kind of 'mutual arms twisting' with its mix of praise and naming and shaming. Since 1989, the independence and territorial integrity of the NATO members is no longer menaced and the role of their armed forces has shifted to peacekeeping and peace enforcement or other operations outside their own territory. Collective defence was replaced by intervention by 'coalitions of the willing,' which were composed on an ad hoc basis. They resembled the integrated approach of collective defence by their multilateral character, but participation was not automatic. Peace support operations required politico-military decision making in which questions like a legitimate mandate, the participation of others, the risk to own forces ands the chances of success played an important part and often were subject to parliamentary debate and approval. Defence policy became an element of a wider security policy in which other government departments, and particularly the ministry of foreign affairs, had their inputs to make.

Clearly, the requirements of intervention differed greatly from the more static aspects of territorial defence and had substantial impact in the areas of reconnaissance, transport, logistics, and equipment. Flexibility and mobility have become new catchwords, which could not entirely make up for the impossibility of quantifying requirements. Military needs became subject to the level of political ambitions of the nation and its willingness to take responsibility for actions which bore no direct relation to national defence in the strict sense of the word. Other notions of a more indirect nature took over, like the preservation of stability, the fight against organised crime and, more recently, against terrorism. These changes needed to be incorporated in new defence white papers, outlining the future tasks of the armed forces. They required changes in the mindset of the planners, but also of their political masters.

Modern equipment needs to be adjusted to the new tasks and military personnel have to be trained to be able to use their new tools in the changed environment. Their profession has changed, too, and has become more dangerous than in the years of the Cold War in which no shots were fired. In peace support operations, once peace has been restored, the military forces become the 'jacks of all trades,' diplomats, mediators, administrators and restorers of infrastructure. Their equipment will have to be adequate for the new tasks, but at the same time capable of sustaining traditional military operations if the conflict escalates again.

In theory, equipment will have to be based on military efficacy in fulfilling the primary tasks outlined in new military concepts and white papers, but in practice this guideline remains rather vague. An example of the changing circumstances was the new emphasis on the threat of terrorism, which led to new requirements for Special Forces and better intelligence. NATO Secretary General Lord Robertson never tired in calling for 'capabilities, capabilities, capabilities,' but after the September 2001 attacks by Al Qaida, 1 the capabilities that were most needed became different from previous years. Obviously, the new threats, commonly defined by NATO and the European Union, as terrorism, weapons of mass destruction, and the combination of failed states and organised crime, present a formidable challenge to politico-military planners, but for the armament directors they are a nightmare. They are supposed to acquire

equipment, which could be expected to last for 30 years, but are not able to get clear requirements in terms of specifications and numbers needed. Given the long lead-times involved in the development of military equipment their task is not to be envied.

In any case, one criterion is given added weight and this concerns the physical safety of the personnel handling the weapon systems. Dying in defence of one's country is a different matter from becoming a casualty in peace support intervention. No wonder that parliamentary debates on accepting these missions pay great (and sometimes excessive) attention to the risks involved. If there were to be no risk, the need for sending military forces would not be evident. Of course, the urgency of an operation and the willingness to join has to be evaluated in terms of possible losses and every commander has the duty to minimise casualties among the personnel entrusted to him. The more the military forces have to act in the role of the 'guardian soldier,' the more they are entitled to maximum care for their physical protection. Yet, it is not easy to calculate risks and to instruct soldiers accordingly. In peacekeeping operations, it is important to win the hearts and minds of the population, which requires a friendly approach minimising the show of force with protected soldiers in heavy armour. If, however, rebels and suicide killers mix with the people, protective measures have to be strengthened and the corresponding equipment provided. The ultimate political evaluation, which governments and parliamentarians have to make, is one of risk sharing and the need to take joint responsibility in crisis management, which has no immediate impact on the defence of their country, but might have serious consequences for peace and stability in the long run.

Obtaining Parliamentary Approval

A model sequence of reporting on procurement is taken from parliamentary practice in the Netherlands. In this process, the first communication should be sent to parliament when the operational requirement has been determined in general terms: the type of equipment and a general indication of the numbers needed. In many cases, the new equipment will replace older and outdated equipment. New technologies might reduce the numbers required, but will also affect the cost of the project. Some indication will have to be given as to the volume of funding reserved for the procurement. Parliamentarians are likely to focus on the share of the overall budget to be absorbed by the new plans and pose questions concerning their compatibility with other priority needs.

Once the requirement has been approved, or at least not rejected 'the commission takes note of the document presented' and the next phase concerns preparatory studies on a number of subjects. The operational requirements have to be translated into technical specifications. The market has to be explored and an exhaustive list of all possible suppliers drawn up. Or, if it appears that nothing much is yet available in the near future, plans have to be drawn up for a development phase in co-operation with industry and, where possible, with other interested countries. In both cases, a procurement strategy has to be established, as well as a timetable for production and delivery to the armed forces.

The third step is a thorough study of the information provided by interested suppliers. Are they able to fulfil all specifications or do they suggest alternative ways of meeting the requirements? Is the equipment in use by other forces and what are their experiences regarding performance? What are the possibilities for co-production and compensation? This study should lead to a short list of alternative products. Depending on the parliamentary practice of the country concerned, this information should be made public and subjected to discussion in the competent parliamentary committee.

The fourth phase concerns preparations for the acquisition on the basis of negotiated offers, possibly complemented by field trials. The armaments directorate will apply a range of criteria in arriving at its final judgement. Assuming that several alternatives meet the military requirements, other factors enter the fray. What are the life-cycle costs; are there gradations in military effectiveness and the safety of personnel?

Concurrently, the ministry of economic affairs, or another agency responsible for the involvement of domestic industry in military production, will negotiate co-production and, when necessary, complementary compensation outside the project concerned. Over time parliaments have become more demanding and usually demand one hundred percent compensation for every defence dollar or Euro spent abroad. As foreign suppliers tend to paint too rosy a picture of their compensation activities, parliaments are pressing for penalty clauses if the targets are not met. Putting them into contracts, however, is no easy matter as usually the time allowed for effecting compensation is prolonged and might cover some ten years. In the meantime, some plans will have lost their feasibility or other possibilities might have opened up. In any case, no contract will be signed until it has become clear that the domestic industry will be adequately involved in its implementation.

This final phase is subject to intense lobbying, involving the media, think tanks and parliamentarians. Decision makers are invited to visit factories or attend demonstrations. This is also the phase in which they have to be extraordinarily careful not to accept favours, which might be seen as influencing their judgement. There have been many cases in the past where politicians have accepted holiday trips or even outright payments for themselves or their party coffers.

Practice varies as to how authority to sign the definitive contract is obtained, sometimes preceded by a letter of intent. In the Netherlands, this depends on the money value. Contracts below Euro 5 mln are left to the service concerned. Up to Euro 25 mln, the projects have to be included in the overall defence plan by the Chief of the Defence Staff in his role of 'corporate planner' and communicated to parliament. Between Euro 25 and 100 mln, the requirement at the beginning of the cycle has to be approved by the parliamentary committee, but further execution is mandated to the service concerned, unless the project has been qualified as 'politically sensitive'. Projects of higher value need parliamentary approval before signature. Only the State Secretary (deputy minister) in charge of equipment can make decisions regarding project implementation. Contracts above Euro 250 mln require approval by the full cabinet before they are submitted to parliament. If the parliamentary committee does not give the green light, members can put the issue on the agenda of the plenary session of the Second Chamber for a debate and vote.

The model sequence, or somewhat similar, outlined above is practised in only a few NATO countries. DCAF Occasional Paper No.2 on 'Democratic Control of Armed Forces: the National and International Parliamentary Dimension' includes a comparative table on parliamentary authority, either in plenary or in committee. The record was not bad in terms of legislation, but less impressive on control of the executive. The Minister of Defence is obliged to provide information to the defence committee on procurement decisions above a certain amount in Germany (above €25 mln), the Netherlands (above €50.0000, Norway (above €0.8 mln), Poland and the UK. In all these countries, except the UK, parliamentary consent is needed to conclude the contract. Involvement of the committee in specifying the need for new equipment is provided for in Canada, the Czech Republic, France, Germany and the Netherlands; and in the comparison of offers and selection of a producer in the Czech Republic, the Netherlands and Norway. Only the Czech and Netherlands parliaments have reported involvement in the assessment of compensation and offset arrangements.

All NATO countries have parliamentary committees on defence, but few have a form of expert support. There is no lack of independent think tanks, but rarely does a parliament instigate research of its own accord, challenging the official views. In the USA, the Congressional Research Service of the Library of Congress provides an impressive array of documentation and support, but does not have a separate defence section. The Congressional Budget Office traces the implementation of authorised expenditure. In the UK, parliament has a large library with some 200 experts and an International Affairs and Defence Section. There is no specific research bureau for defence matters, but the Select Committee on Defence has its own staff, which often consult external expertise. The German Bundestag has its *Wissenschaftliche Dienst* with three persons working on defence and security and links with independent institutes, such as the *Stiftung Wissenschaft und Politik.* The French National Assembly has a *Service des Etudes et de la documentation* with a staff of 36, and the defence committee a supporting staff of seven persons. Norway has a Council on Defence Research, which advises the government. The Swedish Riksdag has a research service with some 30 staff collecting public information. Parliament has the right to request research by government-subsidised institutions, but rarely does so. The Stockholm International Peace Research Institute produces an impressive yearbook, book-size studies and reports, but has an international agenda, like the International Institute of Strategic Studies in London.

The Wishes of European Industry

Industry has a vital interest in good communications with the ministry of defence, the national armaments director and the officers and civil servants in charge of procurement for the services. They want to hear as soon as possible about future planning to be able to adjust their production schedules and to prepare the best offer in terms of the state of the art and anticipated technological developments. It is a two-way street, because industry often is better equipped to judge what is technologically feasible within the time frame of the military requirements. Industry looks for continuity and economies of scale. Over time, they have been remarkably capable of

devising production schedules and work-shares in co-production arrangements, but in a thinning defence market there were simply too many European firms fighting for the same contract.

In order to remain competent and competitive, industry looked to governments for 'demonstrator' projects, which would not necessarily come into production, but would be ready for implementation when the time was ripe. In this way, research and design staffs would not have to be laid off, but productive capacity tended to become under-utilised and profits would be low. To put this strategy into practice, active governmental support would be necessary, but unfortunately the European levels of funding R&D work fell far short of American spending.

European industry constantly pushed for the recognition by the EU:

- Firstly, that the European defence industrial and technology base is a vital strategic asset and that its maintenance is a prerequisite for a genuine European security and defence identity;
- Secondly, that a European domestic defence equipment market (DITB) of sufficient size is needed to provide the foundation upon which the European defence industry can sustain its global effectiveness. This must assume that partner nations will accept industrial and technological interdependence as a norm;
- Thirdly, that the long-term existence of a European defence industrial and technology base will require the identification of those critical technologies, which need to be sustained in Europe, and the necessary investment in leading edge technology programmes to demonstrate their effectiveness.

To enable the creation of a single European Defence Equipment Market, the EU should develop:

- A common, or at least substantially overlapping, foreign and security policy, having particular regard to the harmonisation of military requirements, and to use the efficiencies resulting from longer production runs.
- A common armaments policy that defines an agreed mechanism for dismantling trade barriers and consolidating the industry on the basis of principles of mutual interdependence, as well as a framework for the long-term development of a European defence industry. In the past, arguments about security of supply had been considerable obstacles and ways should be found to remove them.
- A common procurement policy that implements the industrial strategy through agreed harmonised procurement mechanisms for contractor selection, funding, risk sharing and technology transfer. As long as each government carried out these functions in isolation, it would be very difficult to procure anything except on a national basis.

- A common research and development policy with common objectives to optimise investment, via a willingness to increase the sharing of R&D results between the nations.

Towards a European Security and Defence Policy

The European communities took a long time in dealing with defence issues and military matters. When the European Political Cooperation started in 1971, the political aspects of East – West relations were put on the agenda, but the closest they came to security was the emerging Conference on Security and Co-operation in Europe (later becoming an Organisation with OSCE as its acronym). Military aspects were negotiated in the Vienna-based conference on Mutual and Balanced Forces, where the Western position was co-ordinated in NATO without the participation of France, which had opted out of the military integration.

In 1982, the foreign ministers of Germany and Italy took the Genscher - Colombo initiative to extend the European Political Co-operation to the field of security. Three participating countries, Denmark, Greece and Ireland, albeit for different reasons, were not prepared to participate and, consequently, the EPC in its Solemn Declaration of Stuttgart in 1983 was unable to move beyond the statement that 'the Ten' would discuss the political and economic aspects of security, thus omitting the military ones. The seven member states of the WEU would have been prepared to go further, but there was little enthusiasm. Several felt that the defence discussions outside of NATO could become divisive, certainly as long as France did not participate in NATO's integrated military structure and rejected the strategy of flexible response. Nevertheless, all seven agreed to discuss a new role for the WEU at a meeting to celebrate the 30th anniversary of the Paris Treaties of 1954 in Rome.

The revitalisation of the WEU did not proceed smoothly. It took hold only in 1987 when the Netherlands presidency managed to produce the Hague Platform on European Security Interests, which built a bridge between France and the other NATO members on strategic questions. The platform recognised the need for a mix of nuclear and conventional weapons in the defence of Europe, the continued presence of American forces on our continent and the defence of member countries at their borders. The latter formula was an alternative, but acceptable wording for the concept of 'forward defence' employed by NATO. Politically, the Platform gave an important signal by stating that 'European integration would not be complete as long as it did not contain a defence element'. This phrase was accepted by the UK and later on would often be quoted when London put the brakes on.

The second positive development was the WEU decision to co-ordinate the mine-clearance operation in the Gulf during the war between Iran and Iraq, which was the first example of Europe being prepared to assume responsibilities outside its own continent. Of course, the freedom of navigation in the Gulf and security of oil supplies was as much a European interest as an American, or even more so. Nevertheless, in the past Europe had been so pre-occupied with its own survival, that it had allowed itself to be reduced to a regional power at best, with no ambition of force projection elsewhere to protect its interests with military means.

The Iran – Iraq war was a most peculiar contingency, for the belligerents posed no threat to the West, only the mines did. Two years later, the situation was quite different. Saddam Hussein invaded Kuwait in August 1990, provoking a UN Security Council Resolution authorising the use of 'all necessary means' to restore the integrity of the country and imposing a complete trade embargo on Iraq. WEU became the major enforcer of the embargo, examining about three quarters of all ships sailing in the area. At the height of the operation 39 naval vessels, now also including ships from the new members, Spain and Portugal, took part in the operation. Compared to the 1987-8 operation, co-ordination was much better. Deployments were complementary, logistic support capabilities were pooled as well as air and sea transport from home countries.

Following the fall of the Berlin wall and the increasing likelihood of a united Germany, the need was felt for a new attempt to define the *finalité politique* of the process of European integration. The intergovernmental conference culminating in the Treaty of Maastricht transformed the European Communities into a European Union and added several new elements. It decided a timetable for the introduction of the Euro, called into existence the Common Foreign and Security Policy and brought the co-operation between the ministries of justice and home affairs within the scope of the EU. In spite of these milestones, one could doubt whether the resulting framework deserved the title of Union. The CFSP and the judicial co-operation remained purely intergovernmental without the communitarian characteristics of initiative by the European Commission, budgeting and control by the European Parliament and jurisdiction by the European Court of Justice. The most glaring shortcoming of the CFSP was its inability to include hard security within its scope. Again it proved impossible to square the circle between Atlanticists and European advocates. The result was a series of convoluted formulations. At Maastricht, the WEU members issued the following declaration:

> WEU members agree on the need to develop a genuine European security and defence identity and a greater European responsibility on defence matters. This identity will be pursued through a gradual process involving successive phases;
>
> WEU will form an integral part of the process of the development of the European Union and will enhance its contribution to solidarity within the Atlantic Alliance;
>
> WEU member states agree to strengthen the role of WEU, in the longer-term perspective of a common defence, compatible wit that of the Atlantic Alliance;
>
> WEU will be developed as the defence component of the European Union and as a means to strengthen the European pillar of the Atlantic Alliance.

Article J.4 of the Treaty on European Union contained the following wording in its first two subparagraphs:

1. The common foreign and security policy shall include all questions related to the security of the Union, including the eventual framing of a common defence policy, which might in time lead to a common defence;

2. The Union requests the Western European Union (WEU), which is an integral part of the development of the Union, to elaborate and implement decisions and actions of the Union which have defence implications. The Council shall, in agreement with the institutions of the WEU, adopt the necessary practical arrangements.

At the time, it looked rather complicated, particularly as the promised practical arrangements were not forthcoming. It was unclear what the European identity and the European pillar of the Alliance would mean. NATO was not constructed on a pillar basis and an identity needed some arrangements for self-expression. A positive point was that the WEU secretariat could be moved from London to Brussels; less encouraging was that it proved to be much easier to co-operate with NATO than with the EU. Yet, during the 1990s matters clarified themselves. Today, little is heard of a European identity or a pillar and the European Security and Defence Policy. Only a vision at Maastricht is now openly discussed and developed. In Amsterdam, the double conditional of Maastricht was removed in Article J.7 and replaced by the simpler wording that the CFSP 'shall include all questions relating to the security of the Union, including the progressive framing of a common defence policy, … which might lead to a common defence should the European Council so decide'.

During the preparations for Maastricht several proposals, which did not muster sufficient support, were referred to for further examination. This applied to 'enhanced co-operation in the field of armaments with the aim of creating a European armaments agency'. It would take another 13 years before such an agency could be created. The other proposal aimed at developing the WEU Institute of Security Studies, which had replaced the three agencies in Paris, into a European Security and Defence Academy. So far this has not materialised, but the Institute itself was a success, establishing a firm niche in the security community. High Representative Solana annually uses its forum to speak on 'the State of the Union'.

The WEU gained some credibility by its actions in the Gulf, followed by its naval embargo of rump Yugoslavia in the Adriatic and a similar action manned by police and customs officers on the Danube. When the EU assumed the administration of the district of Mostar, the WEU was asked to supply the police element. Later on, the WEU provided the Mutual Assistance Police Element in Albania after the country had experienced chaos following the crash of the pyramid scheme. Paradoxically, most of the activities were carried out by police officers, except for the naval embargoes, and bore little resemblance with the 'defence implications' tasked at Maastricht, unless the word defence was seen as synonymous with security.

In the military field, the WEU made some progress by creating a Satellite Centre in Torrejon, Spain, and after the move to Brussels a Planning Cell located in the same building as the Secretariat. The Centre trained officers in the analysis of satellite pictures, most of which were bought from the French commercial firm SPOT. An

attempt to create a separate satellite capability failed because of lack of funding. The Planning Cell provided advice to the Secretary General and the Council and worked on procedures and contingencies for the use of what came to be called FAWEU, Forces answerable to WEU.

In 1992, at their meeting on the Petersberg near Bonn, Ministers defined the missions the WEU might undertake: humanitarian, rescue (e.g. of citizens from a beleaguered city), peacekeeping, and the role of combat forces in crisis management, including peacemaking. Peacekeeping referred to the traditional UN concept with the agreement of the parties and with a cease-fire in place. Peacemaking, in today's jargon, would be peace enforcement. In the Amsterdam Treaty of 1997 these missions were transferred to the EU at the request of Finland and Sweden, who were prepared to take part, but did not want to subscribe to the automatic military assistance clause of WEU.

A breakthrough occurred in December 1998 with the St Malo declaration agreed by President Chirac and Prime Minister Blair. Its most interesting paragraphs were:

> 2. … the Union must have the 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 crises …

> 3. In order for the European Union to take decisions and approve military action where the Alliance as a whole is not engaged, the Union must be given appropriate structures and a capacity for analysis of situations, sources of intelligence and a capability for relevant strategic planning, without unnecessary duplication ….

The declaration signified a major change in the position of the United Kingdom, which previously had shown little enthusiasm for military activities in the context of the EU. Some other staunch supporters of the Atlantic Alliance, like Portugal and the Netherlands, were surprised by this overtaking on the left, but did not object. The way lay open for incorporation of St Malo in the decisions of the EU. This happened during the European Councils of Cologne and Helsinki in 1999, the latter being even more explicit:

The European Council underlines its determination to develop an autonomous capacity to take decisions and, where NATO as a whole is not engaged, to launch and conduct EU-led military operations in response to international crises.

In December, in Helsinki, the EU leaders further agreed to assemble by 2003 forces of 50 – 60 000 personnel, within sixty days and sustainable for at least a year and able to conduct the full range of the Petersberg missions. Within these forces smaller rapid response elements should be available and deployable at high readiness. The requirement of sustainability meant that an additional pool of deployable units and supporting elements at lower readiness to provide replacement for the initial forces.

Following the statement of this objective – henceforth known as the Helsinki Headline Goals – a group of national experts drew up the Helsinki Headline Goal Catalogue (HHC) setting out the military capabilities the EU would require to meet the

goals. A call for contributions was issued to the member states and their responses were listed in the Helsinki Force Catalogue (HFC). The eastern European countries, which were to join the EU in 2004, were consulted and decided to participate. Their additional contributions were included in a supplement to the HFC.[3]

A comparison of the two catalogues – the HHC containing the requirements and the HFC the available capabilities - revealed 42 shortfalls, which had to be remedied in order to meet the headline goal. A Capability Commitment Conference was called in November 2001, which decided to draw up a European Capability Action Plan (ECAP). The objective of ECAP, which was launched in February 2002, was to propose for each shortfall a short and a medium term solution, until the EU would acquire the means to implement long-term solutions through the procurement of new equipment.

19 ECAP panels were set up to look into 24 of the 42 shortfalls. Each panel consisted of national experts on secondment from interested countries and was led by one or more of them. It had to establish a common operational requirement, list all the means available and the projects under way, identify potential areas of synergy, initiate or extend co-operation on future programs and come up with ideas for joint qualitative or quantitative solution that would make good the capability deficit.

The results of the 19 panels were presented to the defence ministers of the 15 EU member states at a new Capability Commitment Conference on 19 May 2003. The two catalogues were refined in response to progress made and new contributions promised. ECAP entered a new phase with the Helsinki Progress Catalogue (HPC), which would no longer propose solutions, but work towards the implementation of the options identified by the panels. In 2004, the process was extended till 2010.

What For? European Scenarios

In her preface to the 'Report of an independent task force,' published by the EU Institute for Security Studies under the title 'European defence, a proposal for a White Paper', its director, Nicole Gnesotto, wrote that there were two reasons to believe that ESDP would continue to grow substantially in the years to come.[4] The first was the deterioration of the international context with crises remaining in the Balkans, Africa, the Caucasus and Moldova, but especially in the Middle East. Whether they liked it or not, Europeans would not be able to avoid this international disorder, especially at a time when security had become a major concern of its citizens. Gnesotto's second

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[3]   A useful summary of events leading up to the European Capability Action Plan is given in WEU Assembly document A/1842 of 3 December 2003 containing the report by Mrs Aguiar on 'European Defence: Pooling and Strengthening National and European Capabilities – Reply to the Annual Report of the Council.' The Helsinki European Council Presidency Conclusions of 10-11 December 1999 are available under http://europa.eu.int.

[4]   Published in May 2004. All publications of the EU Institute for Security Studies are accessible via its website www.iss-eu.org. In September 2004, the Institute published 'EU Security and Defence Policy, The First Five Years (1999-2004)' with a preface by Javier Solana and edited by Nicole Gnesotto.

reason concerned American insistence that their allies do more, either bilaterally or in the context of international frameworks. The idea of a white paper along the lines issued by many national governments was not new, but it was not possible to agree on charging an intergovernmental group with this task or even on a formal request to the Institute. The European Council in Laeken approved the 'Declaration on the operational capability of the common European security and defence policy' on 15 December 2001 and a report by the Belgian Presidency, which included a statement that the Institute 'will work in particular on a publication on European Defence in the framework of the Petersberg tasks' in order to improve the way public opinion was informed. The Institute did so by means of an independent task force.

The members of the task force shared the basic assumption that 'even though the use of force is neither the first nor the only way to deal with regional or international crises, the EU must have at its disposal a certain level of forces at a certain state of readiness and operational efficiency, if only to widen its range of options when faced with a crisis and to facilitate decision-making at the highest political level'.

In itself this assumption said little of the level of the forces and equipment needed. Moreover, the group was confronted with a growing tension between two types of military requirements: on the one hand, the ability to provide very mobile, flexible and rapid forces for expeditionary intervention; on the other, the necessity to deploy and sustain for a very long period substantial peacekeeping forces for crisis management. Even if the risk of escalation is taken into consideration, the second category is less of a fighting force than the first and requires other skills, training and equipment.

The task force developed five scenarios to serve as broad descriptions of potential missions, from which guidelines for planning and procurement could be deducted:

- a large scale peace support operation.
- high-intensity humanitarian intervention.
- regional warfare in the defence of strategic European interests.
- prevention of an attack involving weapons of mass destruction.
- homeland defence.

Scenario I ranged from modest and uncontroversial monitoring and truce supervision to large-scale multi-dimensional deployments of the IFOR and KFOR variety, which have been a constant of the post World War II security landscape. It did not reveal serious shortfalls. In line with the UN Brahimi report, the EU is able to deploy within 60 days and to set up a mission headquarters within 15 days. The most pressing challenge was deployable and secure command, control and communications. Nevertheless, it was noted that an emphasis on peace support operations could have high opportunity costs, in the sense that they might substantially reduce the ability to perform satisfactorily in scenarios involving high-intensity force projection.

Scenario II aimed at fielding and, if appropriate, leading a force capable of stopping an emerging genocide, without too severe a limitation on geographical location, given the global range of precedents like Bosnia, Rwanda and East Timor. Emphasis was on speed and momentum with follow-on forces exercising a *de facto* international protectorate. Prolongation of the international presence then became a peace support operation under scenario I. The report made the valuable observation that in political terms there is a built-in obstacle against timely action: as long as nothing serious has happened, intervention can hardly be justified; if crimes are being committed it may be politically possible to intervene, but by then it may be too late to save lives.

Operational assumptions are that the intervention requires special operations forces, supported by tactical air forces for close air support and offensive air support, and air- and sealift. The force should be able to carry out counter-insurgency operations in a rural environment (cordon, search and destroy), to establish and control safe areas, to deny and guarantee movement as appropriate, to wage a 'hearts and minds' campaign, to offer military assistance to IGOs and NGOs, and to bring humanitarian relief. Given the time- urgency of action, a lead- nation approach recommends itself, as was the case for operation Artemis in the Ituri province of the Congo.

The task force signalled a number of shortfalls in this scenario. Again the most serious one was secure and deployable command, control and communications, but now also theatre surveillance and reconnaissance, target acquisition, and human intelligence. For a relatively limited deployment, available sea- and air-lift would be sufficient. However, the EU countries would lack highly mobile forces and special operations forces for unconventional warfare, and support and attack helicopters. The overall conclusion of the task force was that 'the shortfalls, while significant, could be corrected through the reallocation of finding and changes in organisational priorities, with limited impact on the overall level of defence spending'.

In Scenario III, regional warfare in the defence of strategic European interests, could be termed a peace enforcement operation, although of a particular muscular variety. The task force felt that future regional wars could affect European interests in two very important but rather different ways. First, by directly threatening European prosperity and security, for instance by interrupting oil supplies or other flows of goods and services, or massive increases in the cost of energy, or forced emigration of war-threatened populations. In the scenario, a regional power attacked a neighbouring country, which then asked the EU and the US for help under Article 5 of the UN Charter. And, secondly, by affecting Europe's ties with the US. Not participating in a crisis which clearly affected European interests as well, would seriously impact on that relationship. In the aftermath of the Iraq war, the latter argument may not be shared as universally as before. Even earlier, the reasoning went along separate paths. Some talk about 'not less America, but more Europe,' which is consistent with close transatlantic ties. Others want to build up Europe as a counterweight to the US, which is less consensual and, in the short term, not a realistic objective. Therefore, it seems more constructive to insist on Europe becoming able and willing to shoulder larger responsibilities, which will extend beyond her own continent.

Today, only the US would be able to provide the framework for regional warfare. The report concludes that EU countries would lack all the shortfalls mentioned under the previous scenarios, plus early warning and distant detection, carrier-based air power, precision-guided munitions and stand-off weapons. They would have insufficient combat search and rescue, air-to-air refuelling, theatre ballistic missile defences, battle damage assessment, psychological warfare units, transport helicopters and even medical units. Logistical capabilities were unlikely to sustain the operation for the required period. Building a European-led variant of this scenario would require defence-spending increases far in excess of what might be expected in a 'baseline scenario'.

Scenario IV dealt with the prevention of an attack involving weapons of mass destruction, particularly in the hands of non-state groups or irregular groups whose affiliation with any given state is not admitted. A case in point was the Taliban regime in Afghanistan and the operation 'Enduring Freedom'. Contrary to the war in Iraq, this operation was of limited size. In fact, it was a combination of large-scale unconventional warfare and medium-scale, broad-spectrum naval and air operations. In the autumn of 2001, the US deployed some 6000 soldiers to Afghanistan, which was, the task force noted, less than the UK sent to the Falklands in 1982. These were supported by a CENTCOM force array in the broader theatre of operations of some 60 000, not more than the Helsinki Headline Goal of the EU.

In theory, such an operation would be do-able for the EU, but the task force concluded, that it would best be conducted in co-ordination with the US. European countries would have enough Special Forces, but at present seemed unable to sustain over a longer period. Moreover, it was unlikely that most would perform well in difficult terrain and under the threat of CBRN weapons. In addition, the EU lacked strategic intelligence assets and medium- and long-endurance unmanned aerial vehicles (UAVs).

In Scenario V, Homeland Defence represents new military tasks, mostly in support of civil authorities. The aim is to protect facilities which intelligence sources consider to be targets of an impending terrorist attack, and to limit the consequences of such an attack once it occurs. Neither contingency is a Petersberg task, but the new European Constitution, which still has to be ratified, includes a solidarity clause among member countries for terrorist attacks or natural calamities.

Planning assumptions included protection of the four largest airports, the two biggest harbours, the ten most critical power plants, the ten most critical chemical plants, and all the capitals of EU member states, including the seat of the EU in Brussels. The EU must provide light infantry as a back up to national police forces to help protect critical infrastructure and to assist in securing the external borders of the EU. For consequence limitation, national forces should assist in the maintenance of law and order. The French emergency plan *Vigipirate Renforcé* was mentioned as an example. Under this heading also comes effective quarantining of areas in which 'ring vaccination' is necessary in order to treat all of the affected population without having to divert scarce resources if the epidemic were not contained.

Civil protection is a national responsibility, but most EU nations lack the means to deal with the consequences of attacks by weapons of mass destruction. To

deal with catastrophic terrorism there is a need for more special operations forces or counter-terror units.

The task force concluded with eight findings and proposed ways of correcting deficiencies:

- The EU cannot deploy land forces quickly and cannot sustain them, due to the shortage of committed, deployable, combat-ready forces.
- The Union has no agreed system of force packaging, which severely restricts deployability and sustainability.
- The Union is capable of conducting a wide range of operations, including high-intensity warfare. However, it runs a relatively high risk of casualties among engaged forces and collateral damage.
- Out-of-area warfare and new roles and missions, such as counter-insurgency and counter-terrorism, require a new doctrinal approach and new training methods. However, the Union has no conceptual approach to force transformation in the sense of shifting from traditional platform-centric warfare to network centric warfare, as demonstrated in the US-led operations in Afghanistan and Iraq. A European doctrine centre was thought necessary, possibly within a European Defence College.
- The EU cannot provide the operational framework for large-scale operations. There are sufficient operational headquarters, but technical shortfalls for operations in distant places.
- The growing military-technical gap between the US and most of the European allies raises questions about interoperability.
- The Union has limited capabilities for strategic decision-making and crisis management, partly due to the weakness of Europe's military space programme.

Remedies could consist of 'bottom-up' specialisation through unilateral concentration on a specific type of force; niche capabilities; co-financing of national capabilities; developing collective capabilities in the fields of command control and communications (C3), intelligence, surveillance, target acquisition and reconnaissance (ISTAR), logistics, combat search and rescue, air-to-air refuelling, suppression of enemy air defences, air defence systems, all-weather precision guided munitions (PGM) and stand-off weaponry. More radical remedies would be top-down specialisation, which imply combining capabilities for collective use and, as a consequence, a collective decision-making process or a supranational authority, or setting up a standing nucleus force and permanent operation headquarters. The latter could be organised at the level of the 'battle groups,' which are the new focus of the European rapid reaction forces and would consist of 1500 men complemented by air and naval components. Finally, research and development activities should be better funded and co-ordinated. Comparing the scenarios, priority was given to homeland defence: civil protection, medical supplies, logistics and emergencies must be co-

ordinated at the European level and the post of European co-ordinator was deemed a necessity.

Differentiation with American Scenarios

While Europeans were planning scenarios with enhanced military capabilities, Americans were confronted with the need to consider scenarios, which focused less on traditional 'war winning' objectives and allowed for stabilisation and reconstruction. Experience in the Balkans and in Iraq had shown that military operations in themselves tended to be rather short, but had to be followed by a prolonged phase of stabilisation and nation building. During the follow-up the military still had to perform their role of 'deterrence by presence' and, if necessary, of forceful action, but nation building would be effective only through close civil-military cooperation.

Almost at the same time as the report of the task force of the EU Institute of Security Studies, the Centre for Technology and National Security Policy (CTNSP) of the US National Defence University published a report on stabilisation operations with scenarios for force sizing.[5] One of its major points argued that the very rapid defeat of the enemy forced the US to be ready to field these resources promptly – ideally concurrently – with the end of major combat. This could only be done if planning for the stabilisation and reconstruction operations was integrated into planning for the conflict from the beginning, and if the right skills were in theatre to begin operations concurrently with the surrender or collapse of the enemy military. In the past, the relatively long duration of major combat was supposed to allow time to plan for reconstruction operations and to begin them as the conflict wound down. The new challenge was to fill the gap between the major combat mission and nation building by a stabilisation and reconstruction mission.

It is still too early to judge reactions to this thesis. It would be a drastic departure from the Powell doctrine developed at the time of the 1990 Iraq war, which aimed at massive intervention, doing the job militarily and leaving as quickly as possible. Yet, the report underlined that successive post-Cold War US interventions have become increasingly more ambitious and include regime change. Rapid and decisive military victory did not guarantee a peaceful post-conflict stabilisation environment and, historically speaking, five to seven years were needed for successful nation building.

The CTNSP report advanced the key judgement that there is no standard model of a stabilisation and reconstruction scenario upon which to base US force planning. Much would depend on the magnitude of the operation, which is largely determined by the size of the country, and the difficulties encountered. Therefore, the ambitiousness of US goals would be a key consideration. Nevertheless, the report formulated far-reaching recommendations. It proposed to create two joint militari

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[5]   Hans Binnendijk and Stuart E. Johnson (eds.), *Transforming for Stabilization and Reconstruction Operations*, Washington D.C.: Center for Technology and National Security Policy, 2004. Available at:
http://www.ndu.edu/ctnsp/S&R_book/S&R.pdf

headquarters to organise units critical to the S&R mission; field two division-equivalents with joint assets, organised to be flexible, modular, scalable and rapidly deployable, with four brigade-size groups that include Military Police, Civil Affairs, Engineers, Medical, and Psyop, supported by a tactical combat capability. A multi-agency civilian rapid response capability should be established to deploy with the S&R forces and prepare for the transition from S&R (under military control) to the nation – building mission (under civilian control).

On the equipment side high-priority items were wireless and land-based communications for civilian/military interoperability, unmanned systems, non-lethal weapons, detection devices for urban operations, and course-of-action analysis and planning tools. Special attention was paid to unmanned vehicles for surveillance and threat neutralisation. In Iraq, two levels of UAV were used, the high altitude Global Hawk and the medium-altitude Predator. For detailed local surveillance further deployment of low-level UAVs would be required, including small systems like Dragon Eye and unmanned ground vehicles for going into buildings and caves. Wide area coverage could reduce manpower requirements.

Quite different news came from the Pentagon after the re-election of president Bush. It made known that the 2005 Quadrennial Defence Review would contain a sweeping re-assessment of military strategy, force structure and equipment.[6] Next to the traditional, but less likely threat of a challenge to US power by military operations, three new categories were defined: irregular, catastrophic and disruptive:

- Irregular threats were seeking to erode US influence and power by unconventional methods, such as terrorism, insurgency, civil war and emerging concepts like 'unrestricted warfare'. The likelihood was very high; the vulnerability moderate, if not effectively checked.
- Catastrophic threats were seeking to paralyse US leadership and power by employing weapons of mass destruction, or WMD-like effects in surprise attacks on symbolic, critical or other high-value targets. Examples were September 11, 2001, terrorist use of WMD and a rogue missile attack. The likelihood was moderate but increasing, the vulnerability unacceptable because a single event could alter the American way of life.
- Disruptive threats were seeking to usurp US power and influence by acquiring breakthrough capabilities, such as sensors, biotechnology, miniaturization on the molecular level, cyber operations, space, directed energy and other emerging fields. The likelihood was low; the vulnerability unknown, with the general caveat that strategic surprise would put US security at risk.

The key to the effort seemed to be to avoid tilting resources toward any given scenario, but it remains unclear how this would affect the allocation of resources, except strengthening the current emphasis on mobility and flexibility.

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[6] 'U.S. Revises Threat Scenarios', *Defence News*, November 2, 2004.

Americans remained in two minds about the European Security and Defence Policy. Would it result in additional capabilities or fritter away scarce resources in new organisational structures and duplication of effort? Earlier they had resisted a European caucus in NATO, which was deemed divisive in an alliance. They could live with the vague notion of a European identity, but that was never defined.[7] The same applied to the principle of 'separable but not separate' forces, which was developed during the first term of the Clinton presidency. Gradually, the US appreciated the fact that Europeans were providing the bulk of forces in the Balkans, but after 9/11 and an initial period of unilateral action, were looking for NATO's wider involvement or a group of its members as an ad hoc coalition of the able and willing. Surprisingly, this proved possible in Afghanistan, but not in Iraq.

It remains to be seen whether NATO will indeed go 'global'. In ISAF, it plays a crucial role, but without the participation of American forces. In Iraq, its role is limited to the training of Iraqi military personnel. An important question for the Europeans will be to what extent the words of Secretary Rumsfeld that 'the mission will determine the coalition' will be applied in limiting NATO consultations. In essence, Rumsfeld's approach would mean that the allies only had the option of joining an operation already decided by the US, while the reverse, i.e. 'the coalition determines the mission' would emphasize a joint approach to crisis management. Apart from this conceptual question, the Europeans would link their contributions to a common action to the influence they would have in the actual conduct of the operation. From their side, the Americans remain uncertain about the ability and willingness of the Europeans to play more than a regional role, limited to the European continent and its immediate periphery. Will the EU overcome its present deficiency of being an 'unbalanced power'[8] and become capable of effective decision-making and of maintaining forces technically able to fight alongside their American allies? Or will the CFSP remain a producer of declaratory policy without any military significance? The question is being asked on both sides of the Atlantic.[9]

Towards a European Defence Agency

The history of European armaments co-operation is long on uneventful. It was a sequence of leap-frogging organisational devices, each one being created at the very

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[7] US objections were voiced in the 'Bartholomew Telegram' of 20 February 1991, reproduced in W. van Eekelen, *Debating European Security*, CEPS/Sdu, 1998, pp. 340-344.

[8] The expression was used by General Klaus Naumann (Ret.) in Bulletin Vol XI. 3, August 2000 of The Atlantic Council of the United States, 'Implementing the European Security and Defense Policy: a practical vision for Europe'.

[9] Kori N. Schake wrote a constructive article in issue 184 of August 2001 of *Strategic Forum* of the Institute for National Strategic Studies of the National Defense University in Washington D.C. under the title 'Do European Union Defence Initiatives Threaten NATO?' She concluded that the extent of European dependence on the US poses a greater threat to American interests than what might develop if the EU becomes a more independent actor in defence policy. ESDP was not responsible for the divergence among NATO militaries but could aggravate existing problems among them.

moment the previous organisation was about to become viable. The Convention drafting a European Constitution tackled the problem in a new way.

In comparison with earlier equipment organisations, the significance of its mandate was the combination of requirements, the link with the European Capabilities Action Plan (ECAP), the defence technological and industrial base, research and technology, procurement, and evaluation. It will be particularly important to discuss requirements as early as possible. Too often in the past, co-operative projects have been established after national requirements had become relatively firm, making the task of finding common solutions to conflicting national demands very difficult. Clearly, defence procurement was no longer a matter left primarily to the armament directors, but was put into a comprehensive context. That was also the reason for the new name: European Defence Agency. It would be a considerable challenge to make this work, because not all national ministries of defence may be geared to such an integrated approach. So we should expect organisational changes in the national set-up, which will be of great interest to parliamentarians.

The mandate for EDA reads:

- contribute to identifying the Member States' military capability objectives and evaluating observance of the capability commitments given by the Member States;
- promote harmonisation of operational needs and adoption of effective, compatible procurement methods;
- propose multilateral projects to fulfil the objective in terms of military capabilities, ensure co-ordination of the programmes implemented by the Member States and management of specific co-operation programmes;
- support defence technology research, and co-ordinate and plan joint research activities and the study of technical solutions meeting future operational needs;
- contribute to identifying and, if necessary, implementing any useful measure for strengthening the industrial and technological base of the defence sector and for improving the effectiveness of military expenditure.

The European Council of Thessaloniki decided not to wait for ratification of the Constitution but to start implementing the Agency as soon as possible. A preparatory committee was formed under Mr Witney, formerly deputy under-secretary for policy in the British ministry of defence, which worked rapidly. On 14 June 2004, the Council agreed a 'Joint Action' establishing the European Defence Agency (EDA). Its Chief Executive and his deputy were appointed soon afterwards, so that a rump staff could start work in September. In addition to these two, five directors were appointed, representing the other LoI countries and Belgium. By the end of 2004, some 20 – 30 personnel were to be recruited. The budget for 2004 was Euro 2 mln, for 2005 Euro 24 mln to cover salaries, installation and the first studies on capability shortfalls. Long-term decisions would be taken with unanimity by the Council of Ministers, but the

yearly programme would be determined with qualified majority vote by the Executive Board on which all participating countries are represented. Denmark did not join.

Export Controls

On 19 December 1994, the EU Council established a common control regime for dual-use exports to third countries[10] as a symbiosis of the Community and the CFSP. In July 2000, this system was replaced by a new control regime, based exclusively on Article 133, bringing both principles and lists under the competence of the Commission and giving it the exclusive right of initiative. All Council decisions were thus to be taken by the qualified majority as opposed to the previous unanimity process. However, as concluded by Burkard Schmitt,[11] since the list of controlled items is a compilation of lists defined by international non-proliferation regimes (such as the Wassenaar agreement, the Missile Technology Control Regime, and the Nuclear Suppliers' Group), where the Commission is not represented, the members states have preserved a dominant position. Moreover, effective implementation is to be expected only if national controls are adequate and industry co-operates.[12] European governments have informal contacts with industry, but only Sweden has an institutional model in its Swedish Export Control Society, which informs companies of changes in Swedish, EU and US policies and co-ordinates the expression of their views back to the government. Since 1991, the US has its Business Executive Enforcement Team with a secure electronic network linking over 3000 individuals in dual-use exporting firms with the Office of Export Enforcement of the US Department of Commerce.[13]

The new EU regime represented an improvement of the earlier Code of Conduct on Arms Exports, adopted by the Council on 8 June 1998 as a Declaration in the framework of the CFSP. This Code was developed by the Council Working Group on Arms Exports (COARM) and contained eight export criteria:[14]

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[10] Council Regulation (EC) 3381/94 and Council Decision 94/942/CFSP published in the Official Journal of the European Communities, L 367 of 31 December 1994, pp. 1-163. Based on both a Regulation and a Decision, the regime was an example of a cross-pillar approach. The control procedures and mechanisms outlined in the Regulation became part of community law; the Decision was adopted under Article J.3 (now art. 14 of the TEU) as a Joint Action taken under the CFSP and listed permitted destinations and controlled items.

[11] 'A Common European Export Policy for Defence and Dual-use Items?' *Occasional Paper* No. 25, WEU Institute for Security Studies, May 2001. pp. 8-9. See also *Chaillot Paper* No. 63, p. 31. Council Regulation (EC) 1334/2000 of 30 June 2000 was amended five times. Its latest consolidated version is Regulation 149/2003, Official Journal L 30/2003.

[12] See 'Business and Security, Public-Private Relationships in a New Security Environment', Alyson J. K. Bailes and Isabel Frommelt (eds.). SIPRI and Oxford University Press, 2004, Chapter 6 'Strategic Export Controls and the Private Sector,' pp. 76-83.

[13] *Ibid,* p. 16, footnote 62.

[14] Defined by the European Councils in Luxembourg (29 June 1991) and Lisbon (26-27 June 1992).

- Respect for the international commitments of EU members, in particular the sanctions decreed by the UN, the EC, and non-proliferation agreements;
- The respect of human rights in the country of final destination;
- The internal situation in the country of final destination;
- Preservation of regional peace, security and stability;
- The national security of the member states, as well as that of friendly and allied countries;
- The behaviour of the buyer country with regards to the international community, in particular its attitude to terrorism, the nature of its alliances, and respect for international law;
- The existence of a risk that the equipment will be diverted within the buyer country or re-exported under undesirable conditions;
- The compatibility of the arms exports with the technical and economic capacity of the recipient country.

The regime of July 2000 established a consultation mechanism to deal with the problem of one member state undercutting another, which had refused to grant an export licence. Member states have to inform each other on denials of export licences, to consult if they have the intention to undercut, and to explain their reasons for doing so. At the Community level, a co-ordinating group, composed of licensing officials and customs officers and chaired by the Commission, meets regularly to discuss the practical application of the Regulation and to develop a common interpretation. That is no easy task, as the guidelines remain vague, making the regime little more than a common framework for different national policies. Member states recognise each other's export licenses, but do not necessarily agree with them. It remains to be seen, whether the consultation machinery can compensate sufficiently for the absence of a common export policy. And the issue will continue to be prominent on parliamentary agendas.

The Role of the Commission

The Commission will also be able to make an impact in the field of research and technology. Its Framework Programmes, covering periods of four years, have become an important sponsor of technological development. Starting in 1984, they are now in their sixth period, which provides for an overall Community participation of Euro 17,5 bn, equalling 5.4 percent of all public (non-military) research spending in the Union. One of the seven thematic priority areas covers aeronautics and space. Although the Framework Programmes only fund civilian projects, they also benefit the military side of their activities. In any case, public R&D funding will help industry to remain competitive at a time when the demand for military equipment is shrinking. Moreover, dual-use technologies have gradually been included in the Framework Programmes, such as Global monitoring for Environment and Security, secure communications, and the safety of IT networks. Recently, the EU accepted the link between military and civilian research. The Presidency Conclusions of the European Council of 20/21 March

2003 explicitly recognised 'the role that defence and security related R&D could play in promoting lead-edge technologies and thereby stimulate innovation and competitiveness'. The Council was invited 'to analyse the role of defence R&D procurement in the context of the overall R&D activities in the Union, including the possible creation by the Council of an inter-governmental defence capabilities development and acquisition agency'.[15] A few months later, at Thessaloniki the European Council decided to proceed with the creation of such an Agency. The increasing attention to the 'Lisbon-agenda' for strengthening innovation and competitiveness is bound to militate in favour of this development, even though some will frown over the emphasis on the inter-governmental character of the new venture. In the meantime, the European Commission is preparing a European Security Research Programme (ESRP) for the period from 2007 onwards.

The outgoing Prodi Commission published a Green Paper on Defence procurement in an attempt to open up the debate on the need to take EU-level initiatives on the regulation of defence procurement markets. Acting on the advice of a 'Group of Personalities' it announced the creation of a European Security Research Advisory Board and the launch of a European Security Research Programme.[16] It argued that a truly European market was crucial for strengthening the competitiveness of European industry, but that the current situation was characterised by the fragmentation of markets along purely national lines, by the specific features which distinguished it from other types of public procurement, and by a complex legal framework.

Parliamentary Oversight

Decisions about defence and security have become more political, and consequently attract more parliamentary attention. Participation in peace support operations is not automatic, but subject to a wide range of considerations. Questions of stability and international law and order are high on the agenda. Grave violations of human rights, or even genocide, necessitate international action of international organisations or 'coalitions of the willing'. Participation is determined by national perceptions of their interests and, increasingly, by their level of ambition. What are they prepared to contribute in terms of costs and what are the risks they are willing to share? And what part of the national cake are they willing to devote to peace and security in a tough competition with other tasks of government, which directly affect the citizen, like health, education and social security? The growing realisation of the link between internal and external security has moved the issue higher up on the political agenda, but trade-offs remain delicate.

Without trying to be too academic it is worth noting that modern Western society has developed a new paradox, which has to do with the difference between value-based and interest-based international co-operation and the confusion between values and norms. Values come first and norms are derived from them. In Western

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15   Quoted by Burkard Schmitt in *Chaillot Paper* No. 63, p.35.
16   COM (2004) 608 final and MEMO/04/222 of 23.09.2004.

organisation, the sharing of sovereignty has become the norm, but risk sharing is the value. The goal of peace has become more of a process and less of a product.[17] The paradox lies in the fact that at the same time our society has become averse to risk; a management ethos has taken the place of great ideals. The result is constant debate about every choice, compounded by the absence of precise criteria for maintaining levels of forces and the corresponding financial effort. Everything has become a matter of appreciation and everybody is in danger of losing track.

Under these circumstances, parliamentarians should attempt to follow a comprehensive and consistent approach, following clearly established procedures for defence committee proceedings and plenary debates. First, their government should present, follow and update its security concept and security policy. These should specify the defence needs in the strict sense of the word, that is the preservation of independence and territorial integrity, and be accompanied by a threat assessment process.

Second, the level of ambition for participation in international peace support operations should be determined, defining concrete contributions in terms of units and skills and readiness for deployment outside the country.

Third, personnel and equipment levels should be geared to these ambitions, including training, logistic support and co-operative arrangements. The preferred option would be to form 'force packages,' trained and ready for deployment as soon as a crisis erupts and the political decision to join the operation is taken.

Fourth, in NATO and the EU more attention should be paid to the acquisition plans of allies and partners. The NATO planning and review process (PARPS) provided for a comprehensive evaluation by the military authorities. The EU follows a voluntary bottom-up process, which so far lacks the top-down process of proposing adjustments to member countries. It is not good enough to identify shortfalls and hope that somebody will fill them. Evaluation by the European Defence Agency might fill the gap.

Fifth, more specifically for defence procurement, a number of points should be made. The DCAF / IPU Handbook for Parliamentarians No. 5 of 2003 devoted chapter 28 to 'Arms and military equipment procurement' with a box of suggestions 'What you can do as a parliamentarian' (See Annex 5). Most important is to make sure that governments apply the democratic processes of 'reveal, explain and justify' also to the equipment sector. On the budgetary side, parliamentarians have to be convinced that there will be sufficient funding for the plans submitted to them, not only in the current year, but also during the entire acquisition phase. Governments have a tendency to underestimate price escalation in long-term projects, and to be more optimistic about future resources than in the current year. Germany and Romania have provided examples of procurement plans, which they could not afford. Statistically, estimates of total project costs have always been on the low side, and sometimes intentionally so. Cost overruns are frequent, delays occur, and flanking programmes are becoming more expensive than budgeted. As defence procurement involves long lead times, it is

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[17] The author is indebted to Christopher Coker for his remarks at the Schengen Conference of the Luxembourg Institute of European and International Studies, June 2004.

important to assess the impact on long-term capacity building to ascertain how new equipment will fit into a harmonious composition of the armed forces. The current emphasis on 'jointness' makes this even more necessary. Equally, attention should be paid to the life cycle costs of the new systems, including maintenance, updates and the personnel needed to handle them.

Aspects of secrecy and the prevention of corruption raise difficult issues. In the area of defence, secrecy inevitably plays a larger role than in other fields. Obviously, detailed operational plans have to remain secret, both for defence and peace enforcement. The same applies to certain weapon characteristics, but the need for secrecy should not be exaggerated. Most performance details are in the public domain through professional journals, company advertisements and other media. If a choice hinges on secret details, parliamentary committees should be able to receive confidential briefings behind closed doors.

Corruption poses a problem, because it is difficult to detect. Is somebody's preference the result of solid evaluation of all relevant factors, or have favours, undue hospitality, presents or outright payments influenced it? Ministries of defence should have special offices for countering corruption among their personnel, with access to all documents involved. Parliamentarians are the objects of approaches by companies in an attempt to sway their vote in a tough competition. Sometimes this takes the form of donations to party coffers, as experienced in Belgium and Germany. The best way to maintain their objectivity in judging bids is not to visit defence companies on their own, but together with colleagues from other political parties.

There is a certain tension between the preferences of the military, who look for the best and are influenced by traditional connections with the armed forces and industrial companies of a particular country – often the US - and politicians who have to take a broader view of the political and economic interests of their country. If a national or joint European product meets the criteria, why not take it, even if an American system might be better? Such considerations play most heavily in countries possessing a substantial arms industry of their own. In others, there are powerful arguments for buying the latest state of the art off the shelf and not giving a preference to European industry. The weight given to economic considerations varies from country to country, but generally is on the increase in comparison with the years in which the priority given to collective defence simply demanded the best. In any case, the matter of jobs at home has always played heavily in parliamentary debates.

Parliamentary control of defence matters rests with national parliaments. Nevertheless, the parliamentary assemblies of NATO and WEU have played an important role in providing an international dimension to the debate. Their reports are of a high quality and a useful source of information to parliamentarians, the media and the public at large. Debating them and working and voting on joint resolutions raises the level of awareness in a process, which could best be described as 'consensus building'. Returning home to their own parliaments, members profit from this common appreciation (or differences) when they have to take the floor in the national debate.

The process of European integration lacks this parliamentary dimension in the field of security and defence. The European Parliament does not have the competence to scrutinise it, although increasingly it touches on the margins and High

Representative Javier Solana appears before its committee on external relations. In future, this may change when questions of industrial policy and technological innovation in the civilian and military sectors become intertwined. So far, however, several countries, France and the UK among them, have resisted giving the European Parliament and the Commission a greater role in these 'intergovernmental' matters. As a result, the possibility of contacts between national parliamentarians at the European level is threatened by the assumption by the EU of the functions of the WEU. The WEU Assembly is already hanging in limbo without the ability to debate with a Council at the ministerial level. Its proposal to form a joint assembly of national parliamentarians and a number of members of the European Parliament has not been retained. Instead, governments have moved in the direction of a heavier agenda for the COSAC, the meeting of members of national committees of European affairs, but these persons are not normally experts in security affairs, nor in the other intergovernmental area of justice and home affairs. The Intergovernmental Conference on the European Constitution included two articles on inter-parliamentary co-operation in Title 2 of the Protocol on the role of Member States' national parliaments in the European Union. This protocol deals primarily with the important issue of 'subsidiarity' and the right of parliaments to send a reasoned opinion on whether a draft European legislative act should be adopted by the Union or left to national legislation. On inter-parliamentary co-operation it reads:

Article 9. The European Parliament and the national Parliaments shall together determine the organisation and promotion of effective and regular inter-parliamentary co-operation within the European Union.

Article 10. The Conference of European Affairs Committees may submit any contribution it deems appropriate for the attention of the European Parliament, the Council and the Commission. That Conference shall in addition promote the exchange of information and best practice between national Parliaments and the European Parliament, including their special committees. It may also organise inter-parliamentary conferences on specific topics, in particular to debate matters of common foreign and security policy, including common security and defence policy. Contributions from the Conference shall not bind national Parliaments and shall not prejudge their positions.

These provisions leave much to be determined in an uneasy relationship between the European and national parliaments. In any case, they would be a step back in comparison with the work of the WEU Assembly, because the members of COSAC do not have a mandate from their national committee or political party and therefore do not draft political resolutions. Infrequent and non-committing parliamentary conferences cannot replace the institutional arrangements of a fully-fledged assembly with a work-plan, a 'rapporteur' system and voting procedures. It is difficult to see how, without preparation in committees, ad hoc conferences of members of 25 or more parliaments will be able to come to meaningful pronouncements.

Another drawback would be the disappearance of the status of Associate Member and Associate Partner which has been an innovative arrangement in the WEU to draw in non-EU members of NATO and the candidate countries for the EU (including Turkey, but without Cyprus and Malta, which do not participate in NATO's Partnership for Peace and therefore have to stray outside the circle of security and

defence policy). Ultimately, this arrangement might lose its significance when Bulgaria and Romania become members of the EU in 2007, but the status of Associate Member for Turkey would remain useful for much longer, also in connection with the working of the European Defence Agency as successor of the WEAO.

Under these circumstances, the security debate among informed parliamentarians is likely to shift to the NATO Parliamentary Assembly with its well-established reputation for the quality of its reports, its links with Partnership for Peace countries, including a special position for Russia, and a Mediterranean working group meeting with representatives from North African countries. The value of the NPA rests largely on the contacts between American and European politicians and will therefore depend on the continued interest shown by the members of the US Congress. Procurement questions usually do not figure prominently on the agenda of the Defence and Security Committee, but issues like the ESDP or technology transfer do.

Conclusion

Parliamentary oversight of defence procurement is far from perfect. Only a few countries follow procedures, which have the potential of imposing checks on the executive. And few parliamentarians are capable of bringing a comprehensive judgement to bear on increasingly complex matters. Political, military and economic considerations are intertwined. Equipment decisions should match the level of ambition of the country in shouldering responsibility for peace and security. They should also be accompanied by a personnel policy which ensures proper staffing and the security of the people handling the equipment. More attention should be paid to what partners and allies are planning to contribute and a serious effort is needed to draw up 'force packages' as a framework for long-term planning and procurement. Their actual deployment will remain subject to sovereign national decisions, but for planning purposes they are essential, even if some redundancy has to be built in to hedge against unexpected withdrawals. Hopefully, a strengthened security and defence policy will keep the partners together in a spirit of solidarity.

Compensation transactions, offsetting financial outlays abroad by co-production or alternative orders, have become a way of life for entire sections in the ministries of economic affairs. Should the U.S. Congress pursue its opposition to these arrangements, foreign buyers will be greatly deterred from acquiring American systems. Parliamentarians usually are keen to know the details of these arrangements in terms of the quality of the employment provided and the cost-increases as a result of duplicating assembly lines or other arrangements. Co-production of parts for the entire series built by the main contractor usually is the best arrangement.

Industry is miles ahead of their governments. This should concern parliamentarians. Governments have jumped from one organisational solution to another, but in the end they have kept their parochial and protectionist attitudes, without realising that their industries would be better off with a proper EDEM and simple rules for export restrictions and security of supply. The participating countries are swaying between interdependence and sovereignty, local industrial interests and the importance of markets of European scale. EDA basically is a top-down approach, but

lasting co-operation also needs a basis built from the bottom up. In short, the European environment is complicated and it will require a real effort by parliamentarians to stay abreast of developments.

Parliamentarians will have to form an opinion on the desirability of either merging industry within their country developing national champions, or pushing for consolidation at the European level. The absence of a unified European defence budget continues to force companies to market their products in each country individually. At the same time industrial policy in Germany and France is less inclined to favour trans-border mergers, while the UK is wavering between European and transatlantic interests. As a result the current giants – EADS, BAE Systems and Thales – might be kept from further mergers among themselves. Future consolidation might be restricted to the second and third tier companies, either on the European or transatlantic scale. Acquisitions by American companies, particularly General Dynamics, are coming under increased scrutiny. In Germany, a recent change in the law on foreign trade has allowed the government to veto foreign investments of more than 25% in any company in the sensitive area of defence.

The various organisational structures, like LoI, OCCAR, POLARM, WEAG and WEAO all had some value, but their output remained below expectations. It is little wonder that the announcement of the European Defence Agency has been met with the usual scepticism. One captain of industry remarked privately that European governments remain divided by 'customs booths of the mind'. Nevertheless, if realised with a certain sense of commitment, EDA for the first time would represent a conscious effort to bring requirements, production, acquisition and ultimately also evaluation, together in the same institutional set-up.

Much attention has been paid to the scenarios for crisis management on both sides of the Atlantic. Some may question a scenario-oriented approach in a time of uncertainty. Nevertheless, it is the only way to plan our armed forces and to equip them appropriately. Parliamentarians would do well to study these scenarios, because they form a comprehensive underpinning of the possible tasks of their armed forces. There seems to be growing agreement between the EU and the US on the major threats confronting both: terrorism, weapons of mass destruction, and failed states in combination with organised crime. The Solana draft of June 2003 has performed an important bridge-building function. It still falls short of a concrete guideline for force planning and needs further refinement, but it has taken much steam out of transatlantic irritations. National parliamentarians should now focus on how they see the role of their country in meeting these threats and which kind of forces and equipment would be necessary to meet these tasks.

It is not the first time that hopes have been raised over equipment co-operation taking off. Now the chances for progress seem better than ever, in spite of the considerable difficulties remaining. On the whole, European industry is sufficiently competent. The problem lies more in the availability of sufficient mass to create economies of scale. Further consolidation therefore seems necessary. Secondly, the EU is only starting to give substance to a European security and defence policy. Officers in uniform are newcomers in a world concentrating on legislation and the creation of a level playing field in competition. Notions of solidarity and risk sharing don't come

naturally, particularly when our own existence is not immediately at stake. Progress has been made. Our values of democracy and respect for human rights are common, at least on paper. In the EU, structural funds to assist underdeveloped regions have created a sense of solidarity. Twenty years ago, the business community gave a strong push in the creation of a common internal market as a necessity to remain competent and to be able to meet international competition. Today, the same trend seems visible in defence production. Yet, differences remain, which are associated with the relations between the state and industry. Governments are ambiguous about their aims. On the one hand, they are interested in maintaining a technological base and the consolidation of companies, which alone would not be able to survive, but also in getting value for money by encouraging competition. Moreover, governments are not very good at picking industrial winners. Their main challenge will be to encourage trans-border co-operation, which does not lead to cost-increases, and to develop programs in which all participants stay the course and do not drop out prematurely, leaving the others to deal with the pieces. In short, what is needed is a spectrum of considerations worthy of parliamentary attention, early on, organised in a systematic way, with professional staff and an optimum of transparency and dialogue.

Chapter 14

Information Standards, Media Policy and Public Relations

Mr. Robert Pszczel

Introduction

In a democratic society, the effective flow of information to the public[1] is an integral part of defence policy. The established system of reporting on defence issues, as well as information technology, including the Internet, are necessary facilities for information purposes, both within the security establishment and between democratic organisations. Promoting a new national defence strategy, a national military strategy, and a defence procurement strategy, as well as assigning new missions for the active forces and for the reserves, and assuming new international military commitments are all endeavours serving the public interest and requiring steady public support. There is no better way of achieving these objectives than by ensuring public participation in the conceptual and implementation phases through consistent public information.

Informing the public, however, is not always a straightforward process and it is not necessarily a given in all democratic systems. For example, on its World Wide Web page, the Delegation of the European Commission to the United States acknowledges that many member states have restrictive or no information access policies for their public, and that 'freedom of information' on government activities is not a concept equally developed across the Union's member states".[2] At the same time, one may recognise that, regardless of the information system in place, there are several general reasons why any democratic government should inform its public and there are some specific reasons why the public should ask to be informed on governmental activities in general and on defence matters in particular.

Starting in the 1990's, it was observed that the public interest in defence issues was increasing both in well-established democracies and in emerging ones. At least for

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[1]   By "public" we understand the general public, the media, non-governmental organisations, the business community, as well as representatives of the people (parliamentarians) and other official organisations.

[2]   The Delegation of the European Commission to the United States, available online at http://www.eurunion.org/index.htm

the European nations, an explanation for this trend resides in the impact of the conflicts in the Balkans, international military operations and the resurgence of terrorism.[3] It is also true that the end of the Cold War brought, among other things, a more likely recourse to military power in international relations, whether it was for the classic use of imposing a nation's or a coalition's will against another international actor, or for containing a crisis, or for providing security to other organisations involved in humanitarian assistance. This shift in behaviour raised public awareness about a nation's use of defence assets, hence the awareness of the defence policy of that particular democratic nation. Defence matters that were traditionally taken for granted are now questioned for their validity, efficiency and even morality. The Internet, as the most visible expression of the information era we live in, has the potential to provide unclassified, non-sensitive information to the general public without the need to spend time and effort 'digging' for information in archives organised in complicated patterns. To these explanations we may add the confidence-building measures that nations took in the last decade which have led to greater transparency in several areas of defence, such as defence policies, force structures and budgets.

Defence matters are under even more public scrutiny in developing democracies. People in these countries have increasingly adopted the democratic practice of enquiring about matters that were previously not subject to public scrutiny, whilst defence has become an increasingly debatable topic for obvious reasons.

With or without a policy, the flow of information to the public is increasing in these countries anyway. The qualitative difference is the existence or the non-existence of clearly defined strategic objectives, and the subsequent consistent or random results. Moreover, if the government and, for that matter, the Ministry of Defence are not organising the management of information under a system governed by a sound policy, other agents in the information market almost immediately take their role in the dissemination of information, a situation that may lead to the spread of gossip, misinterpretation, or frustration from the public, usually expressed by a decrease in support for defence.

Before we enter into the core of the discussion about information policy, some general observations may set the scene. In a democracy, the public ownership of information created by the government should be an essential right. It allows individuals to fulfil their civic responsibilities, as well as to issue informed demands to specific government agencies, eventually leading to an improvement in the quality of their lives.

Recognising the country-specific nature of democracy and proposing a strategic approach to the role of the media in any democracy, the U.S. Agency for International Development starts its technical publication on the subject by observing that access to information is essential to the health of democracy. First, this access 'ensures that citizens make responsible, informed choices' rather than act out of

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[3]   The Interparliamentary Security and Defence Assembly, "European Cooperation on Informing the Public about Defence Issues", Document A/1855, 2004, and the referenced assembly documents, available at http://www.assembly-weu.org/en/documents/sessions_ordinaires/rpt/2004/1855.html#P95_9013

'ignorance or misinformation'. Second, the information 'ensures that elected representatives uphold their oaths of office and carry out the wishes of those who elected them'. In addition, the rule of law is expected to be strengthened by an independent media that keeps the judiciary in check. Finally, an independent media contributes to transparent elections by giving candidates access and by reporting on the 'relevant issues in a timely, objective manner'.[4]

The impact of media reporting is somewhat difficult to measure. There are at least three parameters that vary substantially from nation to nation. One is the level of trust in the mass media. Dušan Reljić asserts that in post-communist countries the public often perceived that the non-governmental media was not working on behalf of them, the general public, and was regarded instead as a political instrument of the government or particular interest groups.[5] A second parameter is the actual response that parliamentarians and members of the government give to media reports, as a measure of how much they treasure public opinion. In a consolidated democracy, where the public influences politicians' behaviour not only through their vote, this impact is relatively high. In emerging democracies, however, the public influence on political behaviour is mostly limited to vote preference. Unless it is an election year, the impact of a particular report may be quite low. And thirdly, the rapid increase in the number of private television channels and newspapers in the first years of democracy-building in former communist nations created a scarcity of professional reporters able to competently and accurately report on security and defence matters.

Defining Information Policy on Defence Matters

Defining information on defence matters and the requirement for a policy on information dissemination demands a distinction between public information and other domains of information within the defence establishment. There should be clear-cut boundaries between factual information and news, on the one hand, and public relations, propaganda and psychological warfare on the other, as public information is different from public relations, and both of them are different from information operations.

Public information, therefore, is the unrestricted public access to information produced by the Ministry of Defence. The specificity of this domain is that the defence establishment is responsible for producing, collecting and preserving the information and for helping the public to access it, either by dissemination or by making it available upon request. Public information is usually regulated by laws, instructions or guidelines, policies and strategies. The aim of public information activity is

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4   U.S. Agency for International Development, Office of Democracy and Governance, *The Role of Media in Democracy: A Strategic Approach*, Technical Publications Series, Washington D.C. 1999, available at: http://www.usaid.gov/our_work/democracy_and _governance/publications/pdfs/pnace630.pdf

5   Dušan Relijć, "Who Builds Civil Society? Civil Society, Mass Media and Democracy in Post-Communist Countries", DCAF Working Paper No. 131, Geneva, 2004. http://www.dcaf.ch/_docs/WP131.pdf

straightforward: to keep the public informed on defence matters as they arise, or to make available historical information. Public information mostly refers to documents[6] and records kept in libraries, archives and offices. The most common means of dissemination are reading rooms in designated libraries and archives, distribution of documents, press releases, posting information over the Internet, and replying to formal requests for specific information. The personnel working in the public information sector should be properly trained to retrieve the appropriate information from the originator, to preserve it for an established duration and to disseminate it as required. They should have librarian or archivist skills, the ability to communicate with the public and a deep understanding of how the organisation is structured and operates.

Public relations are also about informing the public, but with specific ends and means. This domain is not as tightly regulated by government or organisational legislation, with the exception of authorizing who may address the public and of the appropriate strategies to meet the goals of a public relation campaign. The goal is to inform the public with a focus on those aspects of defence policies and activities the organisation wants to emphasise. The results should be a better understanding of the key achievements within the defence establishment, a better image of the military efforts to accomplish their mission and tasks, and greater support from the public for military activities. The most visible means of public relations activities are press releases, news conferences and newsletters. It implies a liaison office between the media and the Ministry of Defence. The training for this domain requires special skills, such as: public speaking, handling interviews on radio or television, attending conferences, press launches, organising opening days in headquarters or military units, conducting visits to the premises, and acting as a spokesperson. While the success of a public information initiative is measured by the quantity and quality of information provided to the public in a timely manner, the success of public relations is measured by obtaining the desired results.

As public information and public relations overlap in most of their ends and in some of the means, there are examples where these two domains are included under the single umbrella of public affairs.

On the other hand, information operations are meant to assist forces involved in military operations in accomplishing their mission, by conveying messages to the public in the area of operations and/or to the opposing forces, which may enable them to understand the situation in general terms, like the reasons why such a military operation is developing, or in specific terms, like what to do in particular circumstances, for example, how to handle humanitarian assistance activities. These

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6   In most of the specialised literature, by 'documents' it is understood all publications issued by the organisation and usually preserved in libraries. Examples of published documents are the national defence and national military strategies, programmes, budgets, as well as journals and other periodicals, conference proceedings, research papers or web pages, which provide substantial or unique information about defence in general or about a specific domain, event, institution or person. By 'records' it is understood all information created and developed as evidence about how a defence organisation or its personnel perform their legal obligations and accomplish their missions and objectives. The records are usually preserved in archives.

types of information operations contain a fair amount of influence or intent, which may be seen (not always for good reasons) closer to dissuasion, manipulation or deception than to information. A good example is given by the short life of the Office of Strategic Influence within the Department of Defence of the United States of America.[7] Created in the wake of the terrorist attacks of 9/11 2001 to oversee information operations carried on by American forces, the office was immediately seen by the media as a potential source of disinformation using the existing channels for public information. Even though the Secretary of Defence and other officials denied such activities, it was terminated shortly after. This case is also interesting because it provided an opportunity for the American defence officials to explain the differences between public information and information operations.[8]

In the words of Defence Secretary Rumsfeld, in public information, the Department of Defence tells 'the American people and the media and, indeed the world, the truth. If anyone says something that proves not to have been accurate, they have a responsibility to correct that at an early opportunity, and they do'.[9] As for information operations, the given examples were messages on leaflets or radio broadcasts 'to encourage enemy forces to surrender; the advertising of rewards for information that leads to the capture of terrorists, weapons of mass destruction material or other items of interest that merit such a reward or bounty; announcements regarding the availability and location of humanitarian assistance; and warnings about dangers of unexploded ordnance or military equipment, and the like'.

An information policy is required both for stating the ends and means of public information, and for clearly defining the boundaries between public information and other information activities within the defence establishment. Apart from this organisational role, an information policy is a powerful tool for enhancing public confidence in the quality and trustworthiness of the information released by the Ministry of Defence. As a concept, information policy may be seen as the framework for developing and managing information resources, infrastructure and institutions.

In practice, information policy may take the format of a single transparent document issued by an authoritative body within the Ministry of Defence, most often by the Minister himself or herself, and, like any policy, it should state the ministry's preference for the most acceptable alternative of how the defence organisation is going to apply the constitutional and legal right of the general public and of interested persons or organisations to be informed on defence matters. It may also take the format of a set of documents, comprising: policy, strategy, guidance, methodology and/or doctrine. In any format, a public information policy should also define the type of information that is releasable or that may require protection from disclosure. It should describe how the interested parties may acquire the information they are seeking, as

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[7]   Donald H. Rumsfeld, DOD news briefing, February 26, 2002, available at: http://www.defenselink.mil/news/Feb2002/t02262002_t0226sd.html

[8]   For an extensive and informed discussion on the different roles and meanings of information, see Zalmay Khalilzad, John P. White and Andrew W. Marshall, "Strategic Appraisal: The Changing Role of Information in Warfare", RAND, Santa Monica, 1999

[9]   Donald H. Rumsfeld, DOD news briefing, February 21, 2002, available at: http://www.defenselink.mil/transcripts/2002/t02212002_t0221sd.html

well as how the organisations tasked with information release activities should employ the required resources in order to accomplish their mission, including infrastructure, facilities, budgets and training.

The Strategic Importance of Public Information on Defence

The public participation, consultations among different governmental authorities, good governance and all other features of democracy depend on the availability of authentic and reliable information. As democracy matures, government agencies, as well as non-governmental institutions, produce increasingly large volumes of information in paper and electronic formats. In the span of the last few years, public information has very rapidly become one of the most critical strategic assets possessed by every nation state, on a par with national wealth, land, and capital.[10] As the main producer and keeper of information related to national defence, the Ministry of Defence of any nation owns a significant portion of that national strategic resource. The ministry is expected to identify, collect, store and preserve its publications and organisational records and to make them available for the public in all formats.

The Ministry of Defence is the primary producer of public information on defence matters, but it is not alone in the information market. There are other governmental bodies that produce documents on defence or related to national defence, such as the Head of State, the Prime Minister, or the Parliament, and there are independent organisations, both national and international, that release opinions, recommendations or analyses on different aspects of defence. In order to gain and preserve a status of accuracy and fairness in this information market and to serve the purpose of acquiring and maintaining public support for defence, the Ministry of Defence should enable timely dissemination of accurate and open information.

The recognition of public information on defence as a strategic national resource has an important political, economic, and social significance. Firstly, the official acknowledgement of the strategic importance of public information on defence is a political commitment to approach the domain of producing, collecting, preserving and disseminating defence information for public consumption upfront and to invest organisational efforts, as well as human and financial resources, in those processes. Secondly, while investments in handling information may be costly, the returns should always be higher in economic terms. Businesses operate within uncertainties all the time, but they clearly prefer to be informed in advance in order to make their plans and organise their activities. The handiest example is procurement policy, but it is not only industries directly related to the defence sector that need information. Let us take the example of force reductions, which is a general trend in almost all nations. Accurate and timely information about the policies, strategies, plans and programmes for conscription and reserve, as two of the fields where force reductions are more visible, is of high importance for almost all business sectors, because it affects businesses

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[10]   U.S. National Commission on Libraries and Information Science, "A Comprehensive Assessment of Public Information Dissemination", final report, volume 1, Washington, DC, 2001.

medium and long term personnel policies. Thirdly, defence is also a social domain and defence policy affects the lives and well being of the entire population. A well-informed public may adhere to that policy more willingly and may project their personal expectations accordingly.

Finally, public information is a strategic asset to a nation as long as good governance is a strategic goal of that nation. Good governance is revealed by the type and consistency of relationships between the state and civil society[11] and it deals with the accountability for how power is exercised. While defence is the organisational expression of military power, the civil society, as the people's involvement in the process of decision-making and government action, should have strategic access to relevant information on defence matters.

A Model of Information Policy

The basic question when discussing any model of information policy on defence is how such a policy fits within the general government framework on public information. A generic model should acknowledge the existence or the non-existence of appropriate legislation and of good or bad practices within the society. Most of the nations that have embarked upon defence institution-building adopted freedom of information legislation in recent years.[12] A 2005 report of Article 19, the London-based non-governmental organisation that advocates free expression, cited by Freedominfo.org, reveals differences between the legal frameworks in the three Southern Caucasus nations of Armenia, Azerbaijan and Georgia, and also similarities in accessing official information.[13] Information policy on defence matters should be consistent not only with general government legislation but also with the requirements of proper information access and in the absence or inconsistency of such general legislation, an information policy may still be of great value for the defence establishment and for the public alike. Some of the problems that an information policy is expected to solve are: confirming the constitutional, legal or moral rights of the public or the media to access information; setting procedures and mechanisms for access to information that prevent arbitrary refusals, manipulation of information, or even release of false information by defence officials; restraining secrecy to an acceptable level; and preventing misinterpretation of facts in the absence of official information, possibly through the use of alternative sources of information. Even in cultures where formal and informal hierarchies restrain their initiative, the military and officials within the defence

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[11] Marina Caparini, "Civil Society and Democratic Oversight of the Security Sector: A Preliminary Investigation", Paper delivered to the Civil Society Building Project in Russia, DCAF, 2003. Available at:
http://www.dcaf.ch/_docs/WP132.pdf

[12] David Banisar, "Freedom of Information and Government Record Access Laws Around the World", a Freedominfo.org Global Survey, 2004, available online at: http://www.freedom info.org/survey.htm

[13] Available online at: http://www.freedominfo.org/reports/article19.htm

establishment appreciate clear guidelines as to what information could be released to the public and how.

An information policy model may not be a 'best practice' model, if by best practice we understand choosing the best outcome after comparing alternative methods to achieve a similar end. The end itself, or the desired outcome is the key to such a model. If it is the objective of the Ministry of Defence to make available to the public accurate and timely information that enables analysing and understanding national security and defence policy, then the policy would be one that promotes transparency of all defence documents, records and current information serving this purpose and will actively disseminate that information to the public. If it is the objective of the Ministry of Defence to make available accurate and timely information that satisfies the basic right of the public to be informed, then the policy would be one that promotes transparency of those defence documents, records and current information that serve the public interest. That information will then be passively disseminated, that is to say that all requests for unclassified information from the public will be answered.

Information policy should serve both the producer of that information (various defence agencies) and the consumer (the public), with clear guidelines for defining all categories of information, setting the responsibilities of dissemination and stating the procedures of accessing it.

Based on the legal requirements, the information policy should indicate how information describing the military organisation, the top level officials within the organisation (both civilian and military), the main activities, the defence planning documents, the budget and other information that may be considered of general interest is distributed within the organisation, how the records are organised and how the public may gain access to that information.

One should be aware that in most cases, the freedom of information laws give generic information categories that may be kept confidential, which in almost every case include information on national security and defence. That is why a very important role of the information policy is to indicate which documents, records and current information on military matters should be available, even if it rests within that broad domain, and what information should be protected under the freedom of information law and under the laws related to protection of classified information.

Some information may not be relevant for the general public but may be necessary or appropriate for the military organisation, especially information which circulates through public channels for the benefit of military personnel and their family members. Making such information available should be also part of this policy.

The following basic recommendations may help in designing a public information policy on defence. They were inspired by the United Nations Educational, Scientific and Cultural Organization (UNESCO) Policy Guidelines for the Development and Promotion of Government Public Domain Information.[14]

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[14]   Paul F. Uhlir, *Policy Guidelines for the Development and Promotion of Government Public Domain Information*, UNESCO, Paris, 2004. Available at http://www.fas.org/sgp/library/unesco_govinfo.pdf

Minimise the costs of disseminating information, both those supported by the defence establishment and those supported by the public, while maximising the quality and quantity of information. When designing the policy, one should be aware that there are costs involved on both sides. Defence organisations need to invest in infrastructure and training of qualified personnel and have to allocate financial resources for operational costs. Those costs are incurred regardless of whether or not there are requests for information. There are also marginal costs that are revealed for each information request, like the one for a printed copy of a document. If the marginal costs may be charged to the consumer, the other costs should be paid for by the organisation. Neither of these costs should interfere with the open access to information.

The policy should also enforce the principle of fairness in disseminating information. Media and businesses compete in their own markets and they are likely to transfer that competition to information access by acquiring preference or exclusivity either on the content or the timing of dissemination. Fairness should lead to dissemination on equitable and timely terms.

There are multiple dissemination channels and not all of them are with the defence establishment. Some are situated at higher levels of the government hierarchy, others are private-sector entities.[15] And others belong to the media. The policy should indicate how information providers make use of all those channels and whether they may be public affairs or distribution offices, national or local libraries, archives, national or defence publications, public or private media, or the internet.

The information policy should also indicate how the public might locate defence information maintained by or for the Ministry of Defence. The minimum required information is: the location of public affairs offices and its opening hours; mailing addresses for requesting information in writing; telephone and fax numbers for queries and contacts; Internet and e-mail addresses; and point of contact coordinates. The policy should set the requirement for publication of catalogues with documents and records produced and preserved within the Ministry of Defence, sorted by classes and levels of classification, as well as the most appropriate avenue to access each of them. Those catalogues might be supplemented by searchable electronic databases or metadata files.

As the culture of e-Governance is spreading around the Globe, and more and more nations are adhering to it, the World Wide Web becomes one of the most popular avenues to disseminate information. Yet the Internet is not just another medium of public information or information management. A minimum set of requirements should be set upfront when the Ministry of Defence operates its web site and those requirements should be reviewed periodically. The best way of organising information dissemination over the Internet is to issue a distinctive policy and to adapt the existing regulations accordingly. Some ideas may be of use when designing such a policy.

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[15]   In a consolidated democracy, the private sector plays a key role in further distributing public information and enhancing its value. This group consists of commercial firms as well as libraries and not-for-profit organisations, acting within a framework of partnership arrangements with the Ministry of Defence.

The Ministry of Defence web page should provide unclassified, non-sensitive information to the general public. The most common page of this kind contains information about: the structure of the defence establishment; the main policies on defence, recruitment; and general public relations information such as newsletters, press releases or biographies of the top officials in the defence establishment. It also should contain web links or contact information for visitors who are interested in other aspects of defence that are not proactively provided on that website.

We said before that there should be a clear-cut distinction between factual information and information operations and that there is the fear that the later may use public information channels to operate. The policy should state from the beginning that the defence website should be organised only to fulfil the requirements of public information and not for other purposes. There are technical and structural ways of singularising the portal that leads to factual information from public relations and other domains of communication on the same web page. There should also be separate authorisation for releasing information such as policies, budgets, legislation, procurement, plans and programmes, and for public relations.

Taking into account the similarities and the differences between information dissemination over the Internet and through paper-based channels, when drafting such a policy one should consider not only the experience gained in handling traditional means of dissemination, but also the opinions of the research community and foreign organisations' practices.

As friends and foes alike may access the information over the Internet, one should establish a proper balance between dissemination of general-purpose information and that of an authorised, sensitive or confidential nature. This procedure may not be identical to the one used in a paper-based dissemination process, for the common sense reason that any non-specialist user may access and handle all information available on the website, while with the paper-based procedure the information is released to a specific individual or organisation requesting it.

As the World Wide Web technology is advancing at a very high speed and all defence bodies have the ability to open their own websites, a sensible policy may be to use the domain name protocol for limiting the uncontrolled spread of official websites dealing with defence information. The policy should establish a trusted website to authenticate the content on related sites, using the appropriate Internet secure systems and adequate digital certification procedures.

There are many places from where one may receive advice on how to handle information over the Internet. Just as an example, there is a collection of checklists, created by the Australian Government Information Management Office to help web managers, business unit owners and others to quickly enhance their understanding of a range of issues associated with the provision of online services.[16] The checklists are short documents that provide relevant knowledge in a simple, non-technical manner. The checklists are not necessarily comprehensive, but comprise the main issues of which one should be aware. They also include references to documentation and contacts from where one may obtain further information.

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[16] Available online at: http://www.agimo.gov.au/practice/delivery/checklists

It is highly recommended that the operational portions of public information policy be tested before that policy is implemented. One of the classical ways of testing it is before, during and in the aftermath of a major military exercise. The test should reveal not only how the mechanisms of dissemination function, but also the effects on the consumers. The test should demonstrate whether the information was accurate and timely enough to enable the public to create an informed opinion or if the information was distorted in any way, and other similar questions.

Balancing Transparency and Confidentiality in Designing Information Policy

One of the most sensitive areas of information policy is stating the norms and procedures that identify what information should be protected and what information should be released to the public. In most cases this area is approached simultaneously by assigning authority for releasing information to the appropriate bodies within the organisation and by classifying the information in clearly identifiable categories. Almost all nations that enforce freedom of information legislation regard the confidentiality clause more as an exception, rather than a rule. The basic guiding principle in balancing transparency and confidentiality remains the right of the public to be informed and whenever confidentiality procedures are applied, it should be in the public interest to protect that information.

It is expected that the balance between openness and secrecy of defence information dissemination will reflect the national balance between freedom of information legislation and culture and the protection of sensitive or classified information legislation and culture. Alasdair Roberts[17] made the observation that, in most of the nations in Central and Eastern Europe, the development of legislation and procedures to open government information to the public was soon tempered by new secrecy legislation and guidance, justified by the argument that the governments were following requirements imposed by international partners like NATO to protect sensitive information.

Due to the very nature of defence as an important pillar of the national security establishment, the Ministry of Defence may have a strong case for maintaining the secrecy of defence documents and activities. What is very often overlooked is the fact that transparency even in a sensitive sector like defence may enhance the national security of a state instead of diminishing it. The national defence policy and national defence planning are areas where transparency is more profitable than secrecy. The defence and military strategies, doctrines, budgets and procurement should be regarded as national assets capable of enhancing the credibility and trustworthiness of the defence sector in the eyes of that nation and of the international community. There are nations that disseminate even the drafts of such documents in order to receive feedback

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[17] Alasdair Roberts, "Entangling Alliances: NATO's Security of Information Policy and the Entrancement of State Secrecy", *International Law Journal*, vol. 36, no. 2, pp. 329-360, Cornell 2003. Available at:
http://faculty.maxwell.syr.edu/asroberts/documents/journal/roberts_cilj_2003.pdf

from civil society and international partners, in order to adjust them before the official adoption.

There are at least two main considerations in handling defence information for public consumption in a balanced fashion. The first refers to authorising the release of information. The higher the authority may be in the hierarchy, the more difficult it might be to clear the information for public dissemination. The second consideration is to set clear guidelines for dissemination personnel, including procedures on how to discern when it is in the public interest to secure a certain piece of information.

The Professionals of Information Policy

Designing a functional information policy is only the first step in providing the required service to the public. Implementing it may sometimes be an even more difficult task. Due to the very nature of the information domain, the personnel involved in implementing such a policy should acquire specific knowledge and develop dedicated skills. In broad terms, the professionals of information policy are not only the civilians and military handling information, but all personnel involved in public affairs, with an emphasis on high-ranking officials.[18]

Employing professionals for public information is not only a managerial solution to maximise the outcome of the policy, it is also an indicator of maturity in the exercise of democratic behaviour. It shows commitment to implementing the policy, engagement in good practices and, last but not least, it shows respect and consideration for the public.

There are some critical areas where professional personnel and leaders with the necessary knowledge and skills may prove to be more efficient than amateurs. In the overall 'philosophy' of freedom of information, they are better situated to explain and preserve its strategic value, the principles that govern this domain and the expected higher returns for a dedicated investment in disseminating information. They are more knowledgeable in understanding the process of applying restrictions and limitations to protect sensitive information without undermining the strategic goal of informing the public. They have a better grasp of the institutional behaviour of their organisation, they know how to overcome shortfalls in regulations and have the authority to make appropriate decisions concerning the preservation and dissemination of information on defence matters. They are also trained to handle the media and the public and usually perform better in conveying the appropriate message.

Training professionals for the job and training the leaders to perform professionally in handling information and approaching consumers of that information is not an easy or a cheap task, but in all cases studied for this article it has been a worthy investment. In newly-established democracies, it is very difficult to find the required number of professional civilians and military for information policy, because

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[18]　Article 19 has developed a training tool for officials involved in implementation of freedom of information legislation that may be of use for defence officials as well: Freedom of Information: Training Manual for Public Officials, London, 2005, available online at www.article19.org

the previous communist systems concentrated more on influence and propaganda than on fair reporting to the people. It is even more difficult for the defence establishment, due to the unique nature of the task. There may exist highly knowledgeable specialists on security and defence matters but who have no knowledge and skills in public affairs, or *vice versa*. Fortunately, international assistance programmes can offer help in overcoming training shortfalls in such cases.

Training should be a continuous process as defence realities and the environment are evolving rapidly. Making better use of electronic means of producing, conserving and disseminating information is only one example where training should continue. The evolving realities of modern warfare and of new types of threats, forces, concepts and armament systems also require re-training of professionals in public affairs.

Training should be continuously supplemented with methodological guidance, a process that is also part of the information policy. It may not be necessary to issue a doctrine, as the United States military does,[19] but a set of clearly defined objectives and instructions on how to meet those objectives might be in order.

As the public interest in defence matters is increasing and new realities are taking shape, the public should also be trained to handle defence information properly. Again, by public we understand not only the general public, but also and especially: the media, non-governmental organizations, business, representatives of the people (parliamentarians), and other official organizations with a theoretical or practical interest in the defence sector. Without a reasonable public understanding of defence issues as they unfold, the purpose of an information policy may not be served.

The anecdotes of embedded reporters and in-studio commentators of the 2003 war in Iraq are good examples of how untrained or un-knowledgeable people may mishandle defence information, even if the stated objective was to grant the media long-term, minimally restrictive access to US air, ground and naval forces.[20] The reasons for these shortcomings were twofold. Firstly, this practice was introduced by the US Department of Defence shortly prior to the inception of Operation Iraqi Freedom and no training was available before that. Secondly, the pattern of the war itself was without precedent, almost incomprehensible to outsiders, whether military or civilian.

Conclusions About Public Information Policy

Public information policy should be an integral part of defence policy, especially when such a policy is developed under the guiding principle of defence institution building. Recognising that this principle serves the public interest, all endeavours such as: promoting new national defence and military strategies; defence procurement

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[19]   US Joint Staff, Joint Publication 3-61: Public Affairs, 9 May 2005.

[20]   Department of Defense, *Public Affairs Guidance on the Embedding Media During Possible Future Operations/Deployments in the U.S. Central Commands Area of Operations*, Washington D.C., 2003, available online at: http://www.defenselink.mil/news/Feb2003/d20030228pag.pdf

strategies; assuming new missions for active forces and for reserves; and fulfilling new international military commitment, require steady public support and participation and thus consistent public information.

An information policy is also required for practical reasons, as the efficiency and effectiveness of the information process increases even if the required policy is not in place. It is also integral to building and preserving public confidence in the quality and trustworthiness of the information released by the Ministry of Defence. A sound information policy may provide the framework for developing and managing defence information resources, infrastructure and institutions in the name of democracy and good governance.

From the very beginning, a sound information policy should recognise public information on defence as a strategic national resource with important political, economic and social significances. It should be developed not only within the framework of a comprehensive defence policy, but also within general government policy and legislation on public information.

It should enforce the legal or moral obligation of the Ministry of Defence to timely dissemination of accurate and open information on defence matters and it should set the organisational and methodological framework for accomplishing this obligation.

There is a fair amount of knowledge and expertise on how to successfully design a public information policy on defence within the international community, which is dedicated to freedom of information and, in some cases, specifically o dissemination of defence information.

The most debateable aspect of designing a defence information policy remains the proper balance between transparency and confidentiality. In designing the information policy, decision-makers should remember that informing the public on defence matters is expected to increase the security status of their nation. The guiding principle should be public interest; a higher public interest must be served by protecting a piece of information than by disseminating it, in order to justify its confidentiality.

Employing professionals in public affairs, both at leadership and at executive levels, is a sound and effective managerial solution to maximise the effectiveness of information policy. It is also an indicator of the democratic maturity of the defence establishment, demonstrating engagement in good practices, as well as respect and consideration for the public.

Nobody who works for (or follows the work of) public institutions can ignore these days the power of the media world. Whether we call the journalists and the outfits they represent the fourth power, whether we analyse the "CNN effect", or simply observe carefully the relationship between media reporting and policies of different institutions, we can only come to the conclusion that media are a force to be reckoned with. Put it differently – you ignore them at your peril.

However, I believe that this rather obvious observation has a drawback: it paints an excessively one-sided, defensive picture of any media policy. What I will try to show in this article is that media deserve to be treated as partners and that responding to their legitimate needs is the best strategy for any public institution. I will focus on the area of security policy, with special prominence given to experiences of the North Atlantic Alliance.

Communicate or Die

Any organisation, especially one which defines its mission in terms of public services, must be able to communicate its raison d'être, provide information about its policies and activities, as well as respond to questions posed by journalists and members of the public. This obligation actually becomes an imperative in all democratic societies. In many countries such obligations are even regulated by legal frameworks, defining for example the maximum length of time that can elapse between a specific enquiry and the answers provided by a public institution.

It should not come as a surprise to anybody that media are considered such a vital element of democratic societies that demand for their full freedom usually tops the list of popular slogans at times and places where people criticise current political systems as unresponsive to their collective wishes.

Evolution of democratic societies, combined with the growing inter-connectivity and global nature of our world, supplies an additional pressure in this respect. There are very few, if any, areas of public life that can escape the attention and public scrutiny. Even the most secretive community – the security services – has to be prepared for a heavy dose of spotlight. The evidence provided by the enquiry into the background to the British dossier concerning WMD prior to the Iraqi war is the most vivid recent example of this tendency. Moreover, the growing importance of the challenge of terrorism and a need to keep the public informed about a government's strategy (it may, after all, involve actions that brings severe restrictions to ordinary people) reinforces this requirement further.

Defence and security institutions have an additional obligation in this respect. Sending forces to far away places, placing men and women in uniform in danger demands a lot of explaining to soldiers/officers and their families. The times of "an ignorant recruit", simply obeying orders from above, have ended ages ago. Today, the security community has every right to expect to understand fully the rationale for a particular policy. One contemporary example to be cited here concerns the presence of stabilisation forces (ISAF) under NATO's command in Afghanistan. People involved in the operation need to be aware that international community has to be engaged in strengthening security in Afghanistan, because that is the only way to ensure that this country will never again be used as the training ground for terrorists (as happened before September 11 attacks against the USA). Moreover, a recognition of high stakes in a battle to stabilise Afghanistan becomes easier to understand, when one explains a connection between drug production and trade there, and the supplies of heroine to majority of European and North American cities.

Media Policy and Information Standards

Once you acknowledge a need for an effective media policy a question arises: what kind of a policy is optimal? To try answering this question I shall analyse first some common principles and assumptions. Subsequently I will attempt to describe factors

and considerations that apply uniquely (or particularly acutely) to security and defence institutions.

Before doing so a quick word on definitions seems useful. While I shall consistently refer to a media policy – defined as a conscious policy of interacting with the representatives of the media – one must draw attention to a wider definition employed in many democratic countries and by different international organisations (including NATO). I have in mind the term public diplomacy, which denotes the same policy of interaction, but encompassing a broader set of addressees and interlocutors. These include opinion-makers, people involved in or influencing a decision-making process, as well as a general public directly. This definition is reflected, inter alia, in the structure of many institutions. In NATO HQ for example, a press service is now part of a Public Diplomacy Division (which replaced former Office of Information and Press).

High Information Standards – the Key to Success

Media policy is implemented for the purpose of disseminating information, explaining a given policy or activity and, ultimately, generating public support for it. Sounds simple enough. However, to reach these objectives, one must diligently stick to a number of high principles or information standards. Each one of them places an individual set of political, intellectual or even technological demands on a given practitioner. The fundamental challenge lies in the fact that all of these standards must be treated equally seriously – neglecting one of them (even if faithfully sticking to others) can deal a fatal blow to the success of the overall media policy.

Truth and Credibility

Undoubtedly the most elementary principle is simply to tell the truth. There is no bigger professional crime that a spokesperson can commit than purposefully mislead the journalists. Of course, such a pledge should derive from the moral imperative of every person. But there are other stakes involved here. For every single case of telling untruth would immediately damage the credibility of an organisation in question. And it would be immaterial whether this were to be just a temporary lapse – in such an instance it would indeed be the case of a spoon of poison polluting an otherwise perfect barrel of good wine.

That is why it is essential to rectify as soon as possible any information (provided in good faith) that turns out to be incorrect. An instructive example of this problem was a well-known event from the NATO-led air operation in Kosovo. It centred on the Alliance fighter planes mistakenly attacking a civilian convoy in the village of Djakovica. As confirmation of the facts was time-consuming, NATO was not sufficiently quick in admitting to this mistake. A number of days have elapsed before NATO's full version of events was presented to the media. Even though there was no foul play involved – there was no attempt to cover-up the facts – it showed how fundamental is the principle of disclosing the truth, and to do it quickly.

One can also cite the example of the initial handling of the tragedy surrounding the Russian submarine "Kursk" by the Russian military authorities few years ago. By withholding information (or, as claimed by some defence correspondents, by providing its misleading version) Ministry of Defence put itself in an unenviable position of being regarded as untrustworthy by the journalists. It has taken the Ministry many difficult efforts, including an unprecedented agreement to allow cameras on board of rescue vessels, to try to win back a lost trust.

And this is yet another dimension of this problem. Truth helps to gain or maintain credibility and this takes time. But the lack of truth can generate the credibility gap in a matter of days, or even hours. It is such a precious commodity for the media policy that it needs to be safeguarded at all times.

Comprehensiveness or the "Full Monty"

Credibility has many facets. One of them is linked to the information principle one could define as "being as comprehensive as possible". Media are inquisitive by nature and these days – thanks to the almost insatiable demand for information (think of CNN and other 24 hours TV channels fully devoted to news coverage) – their hunger for detailed information is very difficult to satisfy.

As every spokesperson knows once you confirm some facts about a given activity a pressure will mount to disclose all the others. For example, the moment NATO announced (in October 2005) that it would respond favourably to Pakistan's request for help to victims of the earthquake in Kashmir journalists demanded to receive timely information about each and every flight with humanitarian assistance, and to be updated regularly about every single team of NATO engineers or medics on the way to the region. While it is not easy (or sometimes not even possible as I will explain later on) to provide such a detailed information in almost real time a maximum effort has to be made.

At this point one should mention the wonders of modern of communication and technology. In this context Internet holds a position of primus inter pares. While traditional means of communicating with the media – press conferences and interviews, media statements, special publications, leaflets etc. – are essential forms of ensuring that the basic information is available it is through materials published on organisation's website that we can "cover all the tracks". A website is a perfect place to access all background information and to try to answer many potential questions that media may be interested in. Moreover, technology allows us to go beyond the written word, and to supplement it with audio recordings, photos, videos or even chat sessions on specific topics. Perhaps immodestly I would strongly recommend a visit to NATO's website – www.nato.int – as a case in point.

Flexibility

It is true that one should not differentiate in the substance of the information and the message conveyed through the media depending on the media interlocutor. It makes no

difference whether a given enquiry emanates from a local journalist or from a global TV network. Facts and explanations should be the same.

But flexibility of approach must be an integral part of any media policy worthy of its name. The first aspect is related to a modus operandi of an organisation. If we are dealing with fast developing events – e.g. as is the case in any significant military operation or a big crisis – interaction with the journalists needs to be equally dynamic. It is not a sin to be sometimes surprised by events. After all, it is in the nature of democracies that nobody can control larger forces at work. And it is certainly in the nature of international security and defence issues that they are complex and often unpredictable. But the element of surprise can not dominate the situation too long. That is where good planning and flexibility can save the day.

The most obvious example of this is the necessary increase in exposure to the media – if such a strong demand appears. It is perhaps sufficient to have one press conference or a background briefing per week if we are in "quiet period". But if a real crisis erupts and calls keep coming through from the journalists that we are not even familiar with, then the only proper response is to up the tempo. This can mean an increase in the frequency of press briefings, a designation of a special website just devoted to the issue at hand and other steps. And the most important point here is that this needs to be done regardless whether we are facing a good or a negative story from the organisation's point of view.

Flexibility should also mean a willingness to try out new ways of providing a story to journalists. Recently, one such example from the world of military operations, has been a practice of embedding a group of journalists with a given unit. While not lacking critics (e.g. worried about a possible loss of freedom for this type of reporting) this practice allows for unprecedented access – for writing journalists but also for cameras – to real-life events. Even if the jury is still out in this case, the media seem to appreciate an opportunity to get close to the action and, perhaps most importantly, to have a chance of observing unfolding stories from a vantage point of a participant in the field, and not only through the lenses of a remote decision-maker.

Last but not least, a media policy should take strong account of regional, cultural or religious sensitivities and nuances. In practice, spokespersons not only have to observe local traditions (e.g. in their direct contacts with media from different countries, by avoiding certain symbols, by being alert to historical details etc.), but also must be very attuned to specifics of a given location. Once example which came to prominence in Afghanistan, was a recognition by NATO's ISAF media spokespersons that in a country with a predominantly illiterate population and still a relatively small media community, radio programmes in Dari or Pushtun were a much better option of communicating with public opinion that, say, written press communiqués.

Professionals, and *Only* Professionals

Even the most superficial glance at the principles that should guide a good media policy suggests that the bar set in front of the people designing and implementing it is set rather high. This being the case one must consolidate these expectations by saying a

few words about spokespersons themselves. I believe that the only sensible conclusion one can draw that there is no substitute for professionalism in this respect.

Spokespersons (or press officers/public information officers depending on the job description) ideally should have experience ensuing from work in an institution or structure they are representing, as well as a good knowledge of the media world. While not a condition sine qua non these parameters are quite essential because of the nature of the job. In their capacity spokespersons need to act as a natural link and an interface between the two partners in a media policy. After all, both sides need each other – journalists are after information, while their interlocutors aim to maximise a positive coverage of their organisation. That is why understanding of each other's interests is so important.

Even if the availability of basic information is satisfactory there still remains a lot of ground to cover – and in many cases this can only be done through personal contacts. One example is a tricky question of information provided on background (without direct attribution) or off-the-record (without any attribution of sources). It is a daily bread and butter stuff of every media service. Often it is perhaps the only way of avoiding recourse to the much disliked (on both sides!) "no comment" response. It applies in particular to situations where the journalists are after an unfolding story – for example when a given institution has not yet reached a formal decision. By definition there is no formal statement or commentary to offer. Nevertheless, the media have the legitimate right to "follow the story" and spokespersons are the people they turn for help.

There is no doubt that then degree to which they can supply such help depends on the mutual trust between the partners. Experienced correspondents, known for their fairness and reputation for discretion, have of course a much better chance of obtaining more information (or getting hold of it quicker). And professionalism of spokespersons is invaluable in this respect.

Moreover, security and defence institutions should pay even more attention to this requirement. For example – without a thorough understanding of operational specifics of a policy, or military realities of it, people liaising with the media can easily commit two opposite mistakes. They can either get carried away in saying too much (thus e.g. endangering security of people on the ground), or they can err on the side of caution (by being excessively restrictive vis-à-vis the media). I will expand on this theme later on.

Access to Information and Policy-Makers

All of the above described principles will still not suffice if persons implementing a media policy face an insurmountable obstacle: i.e. if they are themselves kept at arms length away from information and key decision-makers in their institution. Spokespersons must be "in the loop" themselves, if they are to be of any assistance to the journalists. Obviously, any person placed in a leadership position worth his/her salt understands this. Spokespersons need in many cases a privileged access to their bosses – to act as media advisers, to follow events closely and – in turn – to be able to receive

rapid policy advice on the issues that media are registering a strong and immediate interest in.

In practical terms this means a media service being guaranteed a prerogative to obtain information in a timely manner, often cutting through the normal bureaucratic procedures or timelines. One frequently observes that many fresh democracies (not to mention countries where democracy has yet to take root) struggle with this problem. Even if there is appreciation for the importance of the media policy old habits of rigid hierarchies and fear of empowering individuals within a system often make the job of spokespersons there difficult. Sometimes only a major public crisis that exposes major deficiencies of communicating with the public forces decision-makers to revise their evaluation of the role of a media service.

Moreover, media officers' positions should be treated as full-time occupations. Only then a long-term media policy can be implemented by the people who are fully committed and prepared to make it into success. This problem manifests itself particularly acutely in military structures. Until recently many armed forces saw military press officers as position slots that could be filled in by any officer, often on temporary basis. Progressively the situation has been improving, with majority of defence ministries offering tailored media handling courses for the military, including for the commanders themselves.

Security and Military Institutions: a Special Case

As I have mentioned earlier general principles that are helpful in implementing a successful media policy apply essentially to all public institutions. However, the world of security and defence organisations, and military structures in particular, has its own special characteristics.

The first observation concerns a clear division of labour between civilians and military. NATO as an institution has perhaps the most extensive (over 50 years of its existence) experience in this respect and I will use it as a case study. Being a politico-military organisation the chain of command and the lines of authority are defined well enough. The primacy of the political dimension means that policy decisions and overall supervision over their implementation rests with civilian representatives. This applies to the media policy as well.

However, this principle must not be understood as a prescription for civilians replacing military expertise. Military advice can, for valid political reasons, be overruled, but it should never be ignored. Moreover, when it comes to commanders on the ground (for example KFOR in Kosovo, ISAF in Afghanistan or even those in charge of a humanitarian assistance mission to Pakistan) they must enjoy freedom of responsibility and control to lead a given operation. That is why they (with their respective public information (PI) services) are in the lead for providing information concerning a specific activity, troops statistics and details related to local situation. And direct guidance and supervision for this part of the media policy ensues from the operational hierarchy in the military chain, i.e. overall operational command resting in NATO in the Allied Command Operations and exercised through designated subordinate commands.

This is also why journalists covering NATO-led operations know that detailed questions/enquiries concerning updates on military activity within a given area of responsibility should rather be addressed to respective military PIs than to the NATO HQ Press Service in Brussels. Not only will journalists obtain a more detailed picture from the ground, but they will also receive it from military experts, able to explain better operational nuances.

However, an element of flexibility is indispensable too. For example, all enquiries on any military exercise taking place in the NATO framework are handled, by definition, by military command in charge of such an event. Still, if an unforeseen political problem mars the course of this exercise (e.g. a dispute between participants on the delineation of the zone of an exercise) then the task of explaining the policy and ways of defusing a problem should fall on the shoulders of the civilian media spokespersons.

Similarly, following the same logic of division of labour, we should look towards the military chain to provide information about tactical operations (e.g. disarming a hostile group) or a specific incident (e.g. a bomb attack on a convoy). But it is a different story when a media interest centres on the overall NATO's policy vis-à-vis a given region. To illustrate this with the example from Kosovo – KFOR PI should answer questions on the security arrangements undertaken by the multinational force on the ground, but questions related to the Alliance's position on the UN-led future status talks must be taken care by the civilian spokespersons.

Right to Know Versus Protection of Security

Another specificity is linked to an issue of security per se. It is obvious that two categories of information handled in NATO are in a special, "handle with care" category.

The first type deals with operational security. The Alliance has no problems with announcing publicly that for example a given individual, appearing on a list of people indicted for alleged war crimes in the Balkans, has been apprehended by the NATO-led forces. However, we would not agree to answer specific questions about the circumstances of his apprehension, the unit involved in this operation etc. The reason for this restriction is simple: in such a case security of an operation and safety of the people involved in it takes precedent over the usual openness vis-à-vis the media.

The second category has to do with the fact that organisations such as NATO, and others dealing with security and defence matters, are constantly looking after documents, analyses and information that fall into the classified domain. In most cases NATO is actually a depository of information classified as not open to the public by the nations themselves. This is obviously particularly applicable to subjects handled by the intelligence community.

These are probably the only areas where the media must, however reluctantly, accept that they can not receive many answers to their questions. In 90 out of 100 cases journalists (particularly those covering defence matters on regular base) understand this restriction. Even there however a good media policy involves explaining the reasons why a given information is withheld.

Another variant of the same problem concerns the security of the journalists themselves. We know that a growing demand for instant news and global coverage involves media representatives taking greater and greater risks in covering a story. Unfortunately it is not a coincidence that the first fatalities in many military operations happen to be international journalists (this was the case in the US operation against Talibans and Al Qaida in Afghanistan following September 11, 2001 and in the war in Iraq in 2004). While commanders of military operations should ensure access of the media (e.g. through the embedding solution as described earlier or tailored press tours) they can not offer it on unrestricted basis, as they would not be able to guarantee journalists' security at all times.

So, all in all, while general good rules for a media policy apply, a security and military environment places an even greater premium on sound planning, professional expertise and thorough understanding of the media community.

Instead of a Conclusion …

While this piece has not been written for the purpose of serving as a definitive guide to an ideal media policy – that would be an over ambitious and unrealistic goal - I hope it can make a small contribution to a better understanding of a healthy and productive relationship between the journalists and press officers of security institutions.

An effective media policy, based on sound information principles, is after all an essential ingredient of good public relations (PR). Looking at it from another angle – good PR can translate into a positive image of an organisation, and responding to legitimate needs of the media is certainly a sensible step in this direction.

Private companies care about PR, because they want to sell their product and ensure secure standing for the company. Public institutions, while not bound by the logic of the market, must battle equally hard for the public attention, trust and support. In fact it is their obligation towards taxpayers, public community (local, national or international) and – in the case of security and defence organisations – towards people often risking their lives to fulfil mission tasks. Without public support they would simply not be successful.

And finally allow me to offer a small word of caution. People involved in media policy are no different from other mortals – they are frequently tempted to exaggerate the importance of their task. It is a valuable one, as I have tried to show. Many good policies can be misunderstood and therefore can ultimately fail if not accompanied by a proper relationship with the powerful world of the media. However, spokespersons/press officers should not fall into a trap of assuming that the best media policy can replace a sound policy and convincing actions of an organisation. To cite Talleyrand, believing this would be "worse than a sin, it would be a mistake.

Chapter 15

Defence Institutions and Information Policy

Dr. Hari Bucur-Marcu

Introduction

In a democratic society, the effective flow of information to the public[1] is an integral part of defence policy. The established system of reporting on defence issues, as well as information technology, including the Internet, are necessary facilities for information purposes, both within the security establishment and between democratic organisations. Promoting a new national defence strategy, a national military strategy, and a defence procurement strategy, as well as assigning new missions for the active forces and for the reserves, and assuming new international military commitments are all endeavours serving the public interest and requiring steady public support. There is no better way of achieving these objectives than by ensuring public participation in the conceptual and implementation phases through consistent public information.

Informing the public, however, is not always a straightforward process and it is not necessarily a given in all democratic systems. For example, on its World Wide Web page, the Delegation of the European Commission to the United States acknowledges that many member states have restrictive or no information access policies for their public, and that 'freedom of information' on government activities is not a concept equally developed across the Union's member states"[2]. At the same time, one may recognise that, regardless of the information system in place, there are several general reasons why any democratic government should inform its public and there are some specific reasons why the public should ask to be informed on governmental activities in general and on defence matters in particular.

Starting in the 1990's, it was observed that the public interest in defence issues was increasing both in well-established democracies and in emerging ones. At least for

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[1] By "public" we understand the general public, the media, non-governmental organisations, the business community, as well as representatives of the people (parliamentarians) and other official organisations.

[2] The Delegation of the European Commission to the United States, available online at http://www.eurunion.org/index.htm

the European nations, an explanation for this trend resides in the impact of the conflicts in the Balkans, international military operations and the resurgence of terrorism[3]. It is also true that the end of the Cold War brought, among other things, a more likely recourse to military power in international relations, whether it was for the classic use of imposing a nation's or a coalition's will against another international actor, or for containing a crisis, or for providing security to other organisations involved in humanitarian assistance. This shift in behaviour raised public awareness about a nation's use of defence assets, hence the awareness of the defence policy of that particular democratic nation. Defence matters that were traditionally taken for granted are now questioned for their validity, efficiency and even morality. The Internet, as the most visible expression of the information era we live in, has the potential to provide unclassified, non-sensitive information to the general public without the need to spend time and effort "digging" for information in archives organised in complicated patterns. To these explanations we may add the confidence-building measures that nations took in the last decade which have led to greater transparency in several areas of defence, such as defence policies, force structures and budgets.

Defence matters are under even more public scrutiny in developing democracies. People in these countries have increasingly adopted the democratic practice of enquiring about matters that were previously not subject to public scrutiny, whilst defence has become an increasingly debatable topic for obvious reasons.

With or without a policy, the flow of information to the public is increasing in these countries anyway. The qualitative difference is the existence or the non-existence of clearly defined strategic objectives, and the subsequent consistent or random results. Moreover, if the government and, for that matter, the Ministry of Defence are not organising the management of information under a system governed by a sound policy, other agents in the information market almost immediately take their role in the dissemination of information, a situation that may lead to the spread of gossip, misinterpretation, or frustration from the public, usually expressed by a decrease in support for defence.

Before we enter into the core of the discussion about information policy, some general observations may set the scene. In a democracy, the public ownership of information created by the government should be an essential right. It allows individuals to fulfil their civic responsibilities, as well as to issue informed demands to specific government agencies, eventually leading to an improvement in the quality of their lives.

Recognising the country-specific nature of democracy and proposing a strategic approach to the role of the media in any democracy, the U.S. Agency for International Development starts its technical publication on the subject by observing that access to information is essential to the health of democracy. First, this access "ensures that citizens make responsible, informed choices" rather than act out of

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[3]   The Interparliamentary Security and Defence Assembly, European cooperation on informing the public about defence issues, Document A/1855, 2004, and the referenced assembly documents, available on Internet at http://www.assembly-weu.org/en/documents/sessions_ordinaires/rpt/2004/1855.html#P95_9013

"ignorance or misinformation." Second, the information "ensures that elected representatives uphold their oaths of office and carry out the wishes of those who elected them." In addition, the rule of law is expected to be strengthened by an independent media that keeps the judiciary in check. Finally, an independent media contributes to transparent elections by giving candidates access and by reporting on the "relevant issues in a timely, objective manner." [4]

The impact of media reporting is somewhat difficult to measure. There are at least three parameters that vary substantially from nation to nation. One is the level of trust in the mass media.DUŠAN Reljić asserts that in post-communist countries the public often perceived that the non-governmental media was not working on behalf of them, the general public, and was regarded instead as a political instrument of the government or particular interest groups. [5] A second parameter is the actual response that parliamentarians and members of the government give to media reports, as a measure of how much they treasure public opinion. In a consolidated democracy, where the public influences politicians' behaviour not only through their vote, this impact is relatively high. In emerging democracies, however, the public influence on political behaviour is mostly limited to vote preference. Unless it is an election year, the impact of a particular report may be quite low. And thirdly, the rapid increase in the number of private television channels and newspapers in the first years of democracy-building in former communist nations created a scarcity of professional reporters able to competently and accurately report on security and defence matters.

Defining information policy on defence matters

Defining information on defence matters and the requirement for a policy on information dissemination demands a distinction between public information and other domains of information within the defence establishment. There should be clear-cut boundaries between factual information and news, on the one hand, and public relations, propaganda and psychological warfare on the other, as public information is different from public relations, and both of them are different from information operations.

Public information, therefore, is the unrestricted public access to information produced by the Ministry of Defence. The specificity of this domain is that the defence establishment is responsible for producing, collecting and preserving the information and for helping the public to access it, either by dissemination or by making it available upon request. Public information is usually regulated by laws, instructions or guidelines, policies and strategies. The aim of public information activity is straightforward: to keep the public informed on defence matters as they arise, or to make available historical information.

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[4]   U.S. Agency for International Development, Office of Democracy and Governance, The Role of Media in Democracy: A Strategic Approach, Technical Publications Series, Washington D.C. 1999, available online at: http://www.usaid.gov/our_work/democracy_and_governance/publications/pdfs/pnace630.pdf

[5]   Relijć, Dušan: Civil society, mass media and democracy in post-communist countries, DCAF Working Paper No. 131, Geneva, 2004

Public information mostly refers to documents[6] and records kept in libraries, archives and offices. The most common means of dissemination are reading rooms in designated libraries and archives, distribution of documents, press releases, posting information over the Internet, and replying to formal requests for specific information. The personnel working in the public information sector should be properly trained to retrieve the appropriate information from the originator, to preserve it for an established duration and to disseminate it as required. They should have librarian or archivist skills, the ability to communicate with the public and a deep understanding of how the organisation is structured and operates.

Public relations are also about informing the public, but with specific ends and means. This domain is not as tightly regulated by government or organisational legislation, with the exception of authorizing who may address the public and of the appropriate strategies to meet the goals of a public relation campaign. The goal is to inform the public with a focus on those aspects of defence policies and activities the organisation wants to emphasise. The results should be a better understanding of the key achievements within the defence establishment, a better image of the military efforts to accomplish their mission and tasks, and greater support from the public for military activities. The most visible means of public relations activities are press releases, news conferences and newsletters. It implies a liaison office between the media and the Ministry of Defence. The training for this domain requires special skills, such as: public speaking, handling interviews on radio or television, attending conferences, press launches, organising opening days in headquarters or military units, conducting visits to the premises, and acting as a spokesperson. While the success of a public information initiative is measured by the quantity and quality of information provided to the public in a timely manner, the success of public relations is measured by obtaining the desired results.

As public information and public relations overlap in most of their ends and in some of the means, there are examples where these two domains are included under the single umbrella of public affairs.

On the other hand, information operations are meant to assist forces involved in military operations in accomplishing their mission, by conveying messages to the public in the area of operations and/or to the opposing forces, which may enable them to understand the situation in general terms, like the reasons why such a military operation is developing, or in specific terms, like what to do in particular circumstances, for example, how to handle humanitarian assistance activities. These types of information operations contain a fair amount of influence or intent, which may be seen (not always for good reasons) closer to dissuasion, manipulation or deception than to information. A good example is given by the short life of the Office of Strategic Influence within the

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[6] In most of the specialised literature, by 'documents' it is understood all publications issued by the organisation and usually preserved in libraries. Examples of published documents are the national defence and national military strategies, programmes, budgets, as well as journals and other periodicals, conference proceedings, research papers or web pages, which provide substantial or unique information about defence in general or about a specific domain, event, institution or person. By 'records' it is understood all information created and developed as evidence about how a defence organisation or its personnel perform their legal obligations and accomplish their missions and objectives. The records are usually preserved in archives.

Department of Defence of the United States of America[7]. Created in the wake of the terrorist attacks of 9/11 2001 to oversee information operations carried on by American forces, the office was immediately seen by the media as a potential source of disinformation using the existing channels for public information. Even though the Secretary of Defence and other officials denied such activities, it was terminated shortly after. This case is also interesting because it provided an opportunity for the American defence officials to explain the differences between public information and information operations.[8]

In the words of Defence Secretary Rumsfeld, in public information, the Department of Defense tells "the American people and the media and, indeed the world, the truth. If anyone says something that proves not to have been accurate, they have a responsibility to correct that at an early opportunity, and they do." [9] As for information operations, the given examples were messages on leaflets or radio broadcasts "to encourage enemy forces to surrender; the advertising of rewards for information that leads to the capture of terrorists, weapons of mass destruction material or other items of interest that merit such a reward or bounty; announcements regarding the availability and location of humanitarian assistance; and warnings about dangers of unexploded ordnance or military equipment, and the like."

An information policy is required both for stating the ends and means of public information, and for clearly defining the boundaries between public information and other information activities within the defence establishment. Apart from this organisational role, an information policy is a powerful tool for enhancing public confidence in the quality and trustworthiness of the information released by the Ministry of Defence. As a concept, information policy may be seen as the framework for developing and managing information resources, infrastructure and institutions.

In practice, information policy may take the format of a single transparent document issued by an authoritative body within the Ministry of Defence, most often by the Minister himself or herself, and, like any policy, it should state the ministry's preference for the most acceptable alternative of how the defence organisation is going to apply the constitutional and legal right of the general public and of interested persons or organisations to be informed on defence matters. It may also take the format of a set of documents, comprising: policy, strategy, guidance, methodology and/or doctrine. In any format, a public information policy should also define the type of information that is releasable or that may require protection from disclosure. It should describe how the interested parties may acquire the information they are seeking, as well as how the organisations tasked with information release activities should employ the required resources in order to accomplish their mission, including infrastructure, facilities, budgets and training.

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[7]   Donald H. Rumsfeld, DOD news briefing, February 26, 2002, available at: http://www.defenselink.mil/news/Feb2002/t02262002_t0226sd.html
[8]   For an extensive and informed discussion on the different roles and meanings of information, see Zalmay Khalilzad, John P. White and Andrew W. Marshall, Strategic Appraisal: The Changing Role of Information in Warfare, RAND, Santa Monica, 1999
[9]   Donald H. Rumsfeld, DOD news briefing, February 21, 2002, available at: http://www.defenselink.mil/transcripts/2002/t02212002_t0221sd.html

The strategic importance of public information on defence

The public participation, consultations among different governmental authorities, good governance and all other features of democracy depend on the availability of authentic and reliable information. As democracy matures, government agencies, as well as non-governmental institutions, produce increasingly large volumes of information in paper and electronic formats. In the span of the last few years, public information has very rapidly become one of the most critical strategic assets possessed by every nation state, on a par with national wealth, land, and capital[10]. As the main producer and keeper of information related to national defence, the Ministry of Defence of any nation owns a significant portion of that national strategic resource. The ministry is expected to identify, collect, store and preserve its publications and organisational records and to make them available for the public in all formats.

The Ministry of Defence is the primary producer of public information on defence matters, but it is not alone in the information market. There are other governmental bodies that produce documents on defence or related to national defence, such as the Head of State, the Prime Minister, or the Parliament, and there are independent organisations, both national and international, that release opinions, recommendations or analyses on different aspects of defence. In order to gain and preserve a status of accuracy and fairness in this information market and to serve the purpose of acquiring and maintaining public support for defence, the Ministry of Defence should enable timely dissemination of accurate and open information.

The recognition of public information on defence as a strategic national resource has an important political, economic, and social significance. Firstly, the official acknowledgement of the strategic importance of public information on defence is a political commitment to approach the domain of producing, collecting, preserving and disseminating defence information for public consumption upfront and to invest organisational efforts, as well as human and financial resources, in those processes. Secondly, while investments in handling information may be costly, the returns should always be higher in economic terms. Businesses operate within uncertainties all the time, but they clearly prefer to be informed in advance in order to make their plans and organise their activities. The handiest example is procurement policy, but it is not only industries directly related to the defence sector that need information. Let us take the example of force reductions, which is a general trend in almost all nations. Accurate and timely information about the policies, strategies, plans and programmes for conscription and reserve, as two of the fields where force reductions are more visible, is of high importance for almost all business sectors, because it affects businesses medium and long term personnel policies. Thirdly, defence is also a social domain and defence policy affects the lives and well being of the entire population. A well-informed public may adhere to that policy more willingly and may project their personal expectations accordingly.

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[10]   U.S. National Commission on Libraries and Information Science, A Comprehensive Assessment of Public Information Dissemination, final report, volume 1, Washington, DC, 2001.

Finally, public information is a strategic asset to a nation as long as good governance is a strategic goal of that nation. Good governance is revealed by the type and consistency of relationships between the state and civil society[11] and it deals with the accountability for how power is exercised. While defence is the organisational expression of military power, the civil society, as the people's involvement in the process of decision-making and government action, should have strategic access to relevant information on defence matters.

A model of information policy

The basic question when discussing any model of information policy on defence is how such a policy fits within the general government framework on public information. A generic model should acknowledge the existence or the non-existence of appropriate legislation and of good or bad practices within the society. Most of the nations that have embarked upon defence institution-building adopted freedom of information legislation in recent years[12]. A 2005 report of Article 19, the London-based non-governmental organisation that advocates free expression, cited by Freedominfo.org, reveals differences between the legal frameworks in the three Southern Caucasus nations of Armenia, Azerbaijan and Georgia, and also similarities in accessing official information[13]. Information policy on defence matters should be consistent not only with general government legislation but also with the requirements of proper information access and in the absence or inconsistency of such general legislation, an information policy may still be of great value for the defence establishment and for the public alike.

Some of the problems that an information policy is expected to solve are: confirming the constitutional, legal or moral rights of the public or the media to access information; setting procedures and mechanisms for access to information that prevent arbitrary refusals, manipulation of information, or even release of false information by defence officials; restraining secrecy to an acceptable level; and preventing misinterpretation of facts in the absence of official information, possibly through the use of alternative sources of information. Even in cultures where formal and informal hierarchies restrain their initiative, the military and officials within the defence establishment appreciate clear guidelines as to what information could be released to the public and how.

An information policy model may not be a "best practice" model, if by best practice we understand choosing the best outcome after comparing alternative methods to achieve a similar end. The end itself, or the desired outcome is the key to such a model. If it is the objective of the Ministry of Defence to make available to the public accurate and timely information that enables analysing and understanding national

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[11]   Marina Caparini, Civil Society and Democratic Oversight of the Security Sector: A Preliminary Investigation, Paper delivered to the Civil Society Building Project in Russia, DCAF, 2003.

[12]   David Banisar, Freedom of Information and Government Record Access Laws Around the World, a Freedominfo.org Global Survey, 2004, available online at: http://www.freedominfo.org/survey.htm

[13]   Available online at: http://www.freedominfo.org/reports/article19.htm

security and defence policy, then the policy would be one that promotes transparency of all defence documents, records and current information serving this purpose and will actively disseminate that information to the public. If it is the objective of the Ministry of Defence to make available accurate and timely information that satisfies the basic right of the public to be informed, then the policy would be one that promotes transparency of those defence documents, records and current information that serve the public interest. That information will then be passively disseminated, that is to say that all requests for unclassified information from the public will be answered.

Information policy should serve both the producer of that information (various defence agencies) and the consumer (the public), with clear guidelines for defining all categories of information, setting the responsibilities of dissemination and stating the procedures of accessing it.

Based on the legal requirements, the information policy should indicate how information describing the military organisation, the top level officials within the organisation (both civilian and military), the main activities, the defence planning documents, the budget and other information that may be considered of general interest is distributed within the organisation, how the records are organised and how the public may gain access to that information.

One should be aware that in most cases, the freedom of information laws give generic information categories that may be kept confidential, which in almost every case include information on national security and defence. That is why a very important role of the information policy is to indicate which documents, records and current information on military matters should be available, even if it rests within that broad domain, and what information should be protected under the freedom of information law and under the laws related to protection of classified information.

Some information may not be relevant for the general public but may be necessary or appropriate for the military organisation, especially information which circulates through public channels for the benefit of military personnel and their family members. Making such information available should be also part of this policy.

The following basic recommendations may help in designing a public information policy on defence. They were inspired by the United Nations Educational, Scientific and Cultural Organization (UNESCO) Policy Guidelines for the Development and Promotion of Government Public Domain Information[14].

Minimise the costs of disseminating information, both those supported by the defence establishment and those supported by the public, while maximising the quality and quantity of information. When designing the policy, one should be aware that there are costs involved on both sides. Defence organisations need to invest in infrastructure and training of qualified personnel and have to allocate financial resources for operational costs. Those costs are incurred regardless of whether or not there are requests for information. There are also marginal costs that are revealed for each information request, like the one for a printed copy of a document. If the marginal costs

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[14] Paul F. Uhlir, Policy Guidelines for the Development and Promotion of Government Public Domain Information, UNESCO, Paris, 2004, available online at http://www.fas.org/sgp/library/unesco_govinfo.pdf

may be charged to the consumer, the other costs should be paid for by the organisation. Neither of these costs should interfere with the open access to information.

The policy should also enforce the principle of fairness in disseminating information. Media and businesses compete in their own markets and they are likely to transfer that competition to information access by acquiring preference or exclusivity either on the content or the timing of dissemination. Fairness should lead to dissemination on equitable and timely terms.

There are multiple dissemination channels and not all of them are within the defence establishment. Some are situated at higher levels of the government hierarchy, others are private-sector entities[15] and others belong to the media. The policy should indicate how information providers make use of all those channels and whether they may be public affairs or distribution offices, national or local libraries, archives, national or defence publications, public or private media, or the Internet.

The information policy should also indicate how the public might locate defence information maintained by or for the Ministry of Defence. The minimum required information is: the location of public affairs offices and its opening hours; mailing addresses for requesting information in writing; telephone and fax numbers for queries and contacts; Internet and e-mail addresses; and point of contact coordinates. The policy should set the requirement for publication of catalogues with documents and records produced and preserved within the Ministry of Defence, sorted by classes and levels of classification, as well as the most appropriate avenue to access each of them. Those catalogues might be supplemented by searchable electronic databases or metadata files.

As the culture of e-Governance is spreading around the Globe, and more and more nations are adhering to it, the World Wide Web becomes one of the most popular avenues to disseminate information. Yet the Internet is not just another medium of public information or information management. A minimum set of requirements should be set upfront when the Ministry of Defence operates its web site and those requirements should be reviewed periodically. The best way of organising information dissemination over the Internet is to issue a distinctive policy and to adapt the existing regulations accordingly. Some ideas may be of use when designing such a policy.

The Ministry of Defence web page should provide unclassified, non-sensitive information to the general public. The most common page of this kind contains information about: the structure of the defence establishment; the main policies on defence, recruitment; and general public relations information such as newsletters, press releases or biographies of the top officials in the defence establishment. It also should contain web links or contact information for visitors who are interested in other aspects of defence that are not proactively provided on that website.

We said before that there should be a clear-cut distinction between factual information and information operations and that there is the fear that the later may use

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15   In a consolidated democracy, the private sector plays a key role in further distributing public information and enhancing its value. This group consists of commercial firms as well as libraries and not-for-profit organisations, acting within a framework of partnership arrangements with the Ministry of Defence.

public information channels to operate. The policy should state from the beginning that the defence website should be organised only to fulfil the requirements of public information and not for other purposes. There are technical and structural ways of singularising the portal that leads to factual information from public relations and other domains of communication on the same web page. There should also be separate authorisation for releasing information such as policies, budgets, legislation, procurement, plans and programmes, and for public relations.

Taking into account the similarities and the differences between information dissemination over the Internet and through paper-based channels, when drafting such a policy one should consider not only the experience gained in handling traditional means of dissemination, but also the opinions of the research community and foreign organisations' practices.

As friends and foes alike may access the information over the Internet, one should establish a proper balance between dissemination of general-purpose information and that of an authorised, sensitive or confidential nature. This procedure may not be identical to the one used in a paper-based dissemination process, for the common sense reason that any non-specialist user may access and handle all information available on the website, while with the paper-based procedure the information is released to a specific individual or organisation requesting it.

As the World Wide Web technology is advancing at a very high speed and all defence bodies have the ability to open their own websites, a sensible policy may be to use the domain name protocol for limiting the uncontrolled spread of official websites dealing with defence information. The policy should establish a trusted website to authenticate the content on related sites, using the appropriate Internet secure systems and adequate digital certification procedures.

There are many places from where one may receive advice on how to handle information over the Internet. Just as an example, there is a collection of checklists, created by the Australian Government Information Management Office to help web managers, business unit owners and others to quickly enhance their understanding of a range of issues associated with the provision of online services[16]. The checklists are short documents that provide relevant knowledge in a simple, non-technical manner. The checklists are not necessarily comprehensive, but comprise the main issues of which one should be aware. They also include references to documentation and contacts from where one may obtain further information.

It is highly recommended that the operational portions of public information policy be tested before that policy is implemented. One of the classical ways of testing it is before, during and in the aftermath of a major military exercise. The test should reveal not only how the mechanisms of dissemination function, but also the effects on the consumers. The test should demonstrate whether the information was accurate and timely enough to enable the public to create an informed opinion or if the information was distorted in any way, and other similar questions.

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[16]   Available online at: http://www.agimo.gov.au/practice/delivery/checklists

Balancing transparency and confidentiality in designing information policy

One of the most sensitive areas of information policy is stating the norms and procedures that identify what information should be protected and what information should be released to the public. In most cases this area is approached simultaneously by assigning authority for releasing information to the appropriate bodies within the organisation and by classifying the information in clearly identifiable categories. Almost all nations that enforce freedom of information legislation regard the confidentiality clause more as an exception, rather than a rule. The basic guiding principle in balancing transparency and confidentiality remains the right of the public to be informed and whenever confidentiality procedures are applied, it should be in the public interest to protect that information.

It is expected that the balance between openness and secrecy of defence information dissemination will reflect the national balance between freedom of information legislation and culture and the protection of sensitive or classified information legislation and culture. Alasdair Roberts[17] made the observation that, in most of the nations in Central and Eastern Europe, the development of legislation and procedures to open government information to the public was soon tempered by new secrecy legislation and guidance, justified by the argument that the governments were following requirements imposed by international partners like NATO to protect sensitive information.

Due to the very nature of defence as an important pillar of the national security establishment, the Ministry of Defence may have a strong case for maintaining the secrecy of defence documents and activities. What is very often overlooked is the fact that transparency even in a sensitive sector like defence may enhance the national security of a state instead of diminishing it. The national defence policy and national defence planning are areas where transparency is more profitable than secrecy. The defence and military strategies, doctrines, budgets and procurement should be regarded as national assets capable of enhancing the credibility and trustworthiness of the defence sector in the eyes of that nation and of the international community. There are nations that disseminate even the drafts of such documents in order to receive feedback from civil society and international partners, in order to adjust them before the official adoption.

There are at least two main considerations in handling defence information for public consumption in a balanced fashion. The first refers to authorising the release of information. The higher the authority may be in the hierarchy, the more difficult it might be to clear the information for public dissemination. The second consideration is to set clear guidelines for dissemination personnel, including procedures on how to discern when it is in the public interest to secure a certain piece of information.

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[17] Alasdair Roberts, *Entangling Alliances: NATO's Security of Information Policy and the Entrancement of State Secrecy*, International Law Journal, 36.2,: 329-360, Cornell 2003, available online at
http://faculty.maxwell.syr.edu/asroberts/documents/journal/roberts_cilj_2003.pdf

The professionals of information policy

Designing a functional information policy is only the first step in providing the required service to the public. Implementing it may sometimes be an even more difficult task. Due to the very nature of the information domain, the personnel involved in implementing such a policy should acquire specific knowledge and develop dedicated skills. In broad terms, the professionals of information policy are not only the civilians and military handling information, but all personnel involved in public affairs, with an emphasis on high-ranking officials[18].

Employing professionals for public information is not only a managerial solution to maximise the outcome of the policy, it is also an indicator of maturity in the exercise of democratic behaviour. It shows commitment to implementing the policy, engagement in good practices and, last but not least, it shows respect and consideration for the public.

There are some critical areas where professional personnel and leaders with the necessary knowledge and skills may prove to be more efficient than amateurs. In the overall 'philosophy' of freedom of information, they are better situated to explain and preserve its strategic value, the principles that govern this domain and the expected higher returns for a dedicated investment in disseminating information. They are more knowledgeable in understanding the process of applying restrictions and limitations to protect sensitive information without undermining the strategic goal of informing the public. They have a better grasp of the institutional behaviour of their organisation, they know how to overcome shortfalls in regulations and have the authority to make appropriate decisions concerning the preservation and dissemination of information on defence matters. They are also trained to handle the media and the public and usually perform better in conveying the appropriate message.

Training professionals for the job and training the leaders to perform professionally in handling information and approaching consumers of that information is not an easy or a cheap task, but in all cases studied for this article it has been a worthy investment. In newly-established democracies, it is very difficult to find the required number of professional civilians and military for information policy, because the previous communist systems concentrated more on influence and propaganda than on fair reporting to the people. It is even more difficult for the defence establishment, due to the unique nature of the task. There may exist highly knowledgeable specialists on security and defence matters but who have no knowledge and skills in public affairs, or *vice versa*. Fortunately, international assistance programmes can offer help in overcoming training shortfalls in such cases.

Training should be a continuous process as defence realities and the environment are evolving rapidly. Making better use of electronic means of producing,

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[18] Article 19 has developed a training tool for officials involved in implementation of freedom of information legislation that may be of use for defence officials as well: Freedom of Information: Training Manual for Public Officials, London, 2005, available online at www.article19.org

conserving and disseminating information is only one example where training should continue. The evolving realities of modern warfare and of new types of threats, forces, concepts and armament systems also require re-training of professionals in public affairs.

Training should be continuously supplemented with methodological guidance, a process that is also part of the information policy. It may not be necessary to issue a doctrine, as the United States military does [19], but a set of clearly defined objectives and instructions on how to meet those objectives might be in order.

As the public interest in defence matters is increasing and new realities are taking shape, the public should also be trained to handle defence information properly. Again, by public we understand not only the general public, but also and especially: the media, non-governmental organizations, business, representatives of the people (parliamentarians), and other official organizations with a theoretical or practical interest in the defence sector. Without a reasonable public understanding of defence issues as they unfold, the purpose of an information policy may not be served.

The anecdotes of embedded reporters and in-studio commentators of the 2003 war in Iraq are good examples of how untrained or un-knowledgeable people may mishandle defence information, even if the stated objective was to grant the media long-term, minimally restrictive access to US air, ground and naval forces[20]. The reasons for these shortcomings were twofold. Firstly, this practice was introduced by the US Department of Defence shortly prior to the inception of Operation Iraqi Freedom and no training was available before that. Secondly, the pattern of the war itself was without precedent, almost incomprehensible to outsiders, whether military or civilian.

Conclusion

Public information policy should be an integral part of defence policy, especially when such a policy is developed under the guiding principle of defence institution building. Recognising that this principle serves the public interest, all endeavours such as: promoting new national defence and military strategies; defence procurement strategies; assuming new missions for active forces and for reserves; and fulfilling new international military commitment, require steady public support and participation and thus consistent public information.

An information policy is also required for practical reasons, as the efficiency and effectiveness of the information process increases even if the required policy is not in place. It is also integral to building and preserving public confidence in the quality and trustworthiness of the information released by the Ministry of Defence. A sound information policy may provide the framework for developing and managing defence

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[19]   US Joint Staff, Joint Publication 3-61: Public Affairs, 9 May 2005

[20]   Department of Defense, Public Affairs Guidance on the Embedding Media During Possible Future Operations/Deployments in the U.S. Central Commands Area of Operations, Washington D.C., 2003, available online at:
http://www.defenselink.mil/news/Feb2003/d20030228pag.pdf

information resources, infrastructure and institutions in the name of democracy and good governance.

From the very beginning, a sound information policy should recognise public information on defence as a strategic national resource with important political, economic and social significances. It should be developed not only within the framework of a comprehensive defence policy, but also within general government policy and legislation on public information.

It should enforce the legal or moral obligation of the Ministry of Defence to timely dissemination of accurate and open information on defence matters and it should set the organisational and methodological framework for accomplishing this obligation.

There is a fair amount of knowledge and expertise on how to successfully design a public information policy on defence within the international community, which is dedicated to freedom of information and, in some cases, specifically o dissemination of defence information.

The most debateable aspect of designing a defence information policy remains the proper balance between transparency and confidentiality. In designing the information policy, decision-makers should remember that informing the public on defence matters is expected to increase the security status of their nation. The guiding principle should be public interest; a higher public interest must be served by protecting a piece of information than by disseminating it, in order to justify its confidentiality.

Employing professionals in public affairs, both at leadership and at executive levels, is a sound and effective managerial solution to maximise the effectiveness of information policy. It is also an indicator of the democratic maturity of the defence establishment, demonstrating engagement in good practices, as well as respect and consideration for the public.

Chapter 16

Defence Management and Civil Society Interaction and Co-operation

Dr. Velizar Shalamanov

Introduction

Defence Management (DM) is a large concept that includes different aspects from legal and conceptual ideas through to institution building and resource management to operations, international cooperation and civil control of defence. Defence management is closely related to good governance, especially when it comes to transparency, accountability, effectiveness and efficiency.[1]

  This paper makes an effort to present defence management and civil society models as a first step in developing the interaction model between the two in order to identify challenges and opportunities for good governance in the area from the prospective of cooperation between defence and civil society institutions.

  The idea is to emphasize the crucial role of this cooperation and the need to put at least as much effort in civil society institutions building as we put in defence institution building and even more into the establishment of a mature cooperation model on local, national, regional, Euro-Atlantic and global levels. The main contributions in the paper are focused on development of:

- Reference model for effective defence management;
- Reference model for a mature civil society environment around defence management system;
- Model of cooperation between defence establishment and civil society;
- Model of regional environment on civil society level in relation to defence management.

It has been argued that the enterprise architecture governance approach is one of the adequate ways to address the change management challenge in the area of

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[1] Philipp H. Fluri, Velizar Shalamanov (eds. in chief), *Transparency in Defence Policy, Military Budgeting and Procurement*, (Geneva/Sofia: DCAF and GCMA, 2002), p. 200.

security/defence sector reform. A possible framework for the implementation of such an approach has been created by the Geneva Centre for Democratic Control of Armed Forces, (DCAF), the SSR Working Group of the PfP Consortium of Defence Academies and Security Study Institutes and the newly established Human and Societal Dynamics Panel of NATO Science Committee.[2]

The civil society dimension is extremely important and offers an opportunity to define the process of security sector reform/transformation (SSR) as a change management project around the concept of civil/societal security, facilitated and motivated by civil society institutions in cooperation with the administration.

To support such a project there is a need for a network of academic Centres of Excellence (Coe) in SSR, working in cooperation on a regional basis within the above-mentioned framework.[3]

In this context, the paper covers a general description of a defence management model, a defence related civil society model, a cooperation model as well as regional dimensions in the implementation of the change management project for the security/defence sector.

This paper is based on the assumption that the analysis, assessment, planning for improvements and management of plan implementation could be achieved most successfully by using the enterprise architecture governance approach to defence institutions and civil society relations.

Interaction and cooperation between defence institutions and civil society is directly connected with the maturity of the two entities involved and mutual transparency. The defence establishment has to have clear enterprise architecture with a well-documented functional (operational) structure and culture of interaction with the society. Civil society needs a clear architecture of organizations and rules itself in order to be effective in this interaction. And, in the end, the two sides of this process need to know each other's 'enterprise architecture' and to embrace a culture for partnership. In a certain sense, the effectiveness of interaction could lead to such a level of partnership, when with having a clear line of division between them, the two entities are complimentary in achieving a common goal – security for the citizen, society and state/or alliance of states.

Why an architectural approach is needed in such a study – the answer is manifold:[4]

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[2]   Wilhelm Germann, Timothy Edmunds (eds.), *Towards Security Sector reform in Post Cold War Europe: A Framework for Assessment* (Baden – Baden: BICC/DCAF, Nomos Verlagsgesellschaft, 2003), p. 206.

[3]   Velizar Shalamanov, "Importance of a Knowledge-Based, Network-Centric Approach in Strengthening Transatlantic Link with the New NATO Members in SEE", *Connections: The Quarterly Journal* (Vol. II, No 3, September 2003), pp. 65-76.

[4]   Philipp H. Fluri and Velizar Shalamanov (eds.), *Security Sector Reform – Does It Work?: Problems of Civil-Military and Interagency Cooperation in the Security Sector* (Geneva/Sofia: DCAF and GCMA, 2003), p. 240. Available at: http://www.dcaf.ch/publications/SSR_work.cfm?nav1=4&nav2=2

1. Reform represents a long-lasting effort and continues as a change management process through a new generation of more and more complex transformations.
2. Many people participate with different background and points of view, so the instruments for building a common understanding are needed.
3. Detailed planning, measurement, assessment and real time management/re-adjustment are needed based on common understanding and representation.
4. Synchronization of reforms in MoD, MoI, Civil Protection, services on a national level, as well as at the regional and Euroatlantic levels, is needed.
5. Key role of new IT introduction for network-enabled capabilities during SSR requires matching information networks architecture with organizational (enterprise) architectures.
6. Teaching SSR to people who are outside the security sector yet involved in a certain way in SSR is increased requirement for success.
7. Understanding SSR by more and more people to provide the public support that is needed.
8. Need to project SSR to the new democracies and countries in transition.

Methodology of the architectural approach in analysing the interaction and cooperation between defence institutions and the security sector includes:

1. Definition of Goal and Criteria for Success.
2. Analysis (stock taking) of current situation and establishing of measurement system.
3. Architecture development on operational and system level of the current situation and its assessment from different points of view (PEST and SWOT analysis techniques).
4. Alternatives generation by improving current architecture.
5. Assessment and selection of the desired architecture for the system.
6. Transformation planning from current situation to the desired architecture of the cooperation between defence establishment and civil society.
7. Transformation management (Team and Procedures) in order to have successful security system implemented.
8. Providing transparency, accountability, responsibility and capacity for adaptation.

The current paper is an attempt to prepare the ground for such an approach in the analysing of cooperation between defence management and civil society.

Defence Management

Defence management includes resource management for the maintaining of the defence establishment, as well as operations planning and conducting but, at the same time, it is related to change management (reform, transformation) of the defence system.

The quality of defence management depends most of all on the quality of the institutions in terms of the integration of legislation and policy documents, organizational structures, systems, resources and culture of cooperation, civil control and change management capacity.[5]

The effective management of defence in the context of the overall security sector is the essential responsibility of the Parliament, Government, President and society itself. The model presented in this paper highlights the main aspects of defence management in terms of the following aspects:

1.   Actors and factors in defence management at the highest national/international level.
2.   Responsibilities, functions and support structures for the Minister of Defence.
3.   Civil administration of defence.
4.   Military administration of defence.
5.   General administrative support of defence management.
6.   Operations planning and conducting of operations.
7.   Transition from Peace Time to State of War or other Emergency Situations.

In order to analyse the best practices in defence management a common 'Business Model' for defence is required. The following is an attempt to define its basic elements:

1.   MoD - institution to provide external (international) security and defence.
2.   Society - stock holders and users of services.
3.   Parliament and President - Board of Directors.
4.   Government - Executive Directors with Prime Minister as CEO.
5.   MoD - General Management (Minister of Defence is CEO of the institution).
6.   General Staff / Defence Staff - Production (Ops) Management.
7.   Armed Forces - Production unit.

In addition there are partners, international consortia in this area, providers of external services and materiel.

In a comparative analysis there are emerging many interesting issues to be considered in the defence management arrangements:

1.   Distribution of power among President, Parliament, Prime Minister, Government, Minister of Defence (Deputy Ministers), Chief of General Staff (Chief of Defence Staff), Chiefs of Services, Chief Secretary in MoD, civil servants, military on administrative positions.
2.   Role of the Parliamentary commissions.
3.   Civilianisation of the MoD.

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[5]   Velizar Shalamanov, "Priorities of Bulgarian Defense Policy and Planning", *Security Policy No. 2*, (1999): pp. 3-21.

4.   Balance and level of integration between MoD and GS.
5.   Staffing of defence management structures.
6.   Flow of information.
7.   Relation with other security sector elements.

In order to systematically analyse these institutional arrangements, the main documents and structures relevant to national security will be considered shortly.

Legislation and Other Relevant Documents

The Constitution defines the responsibilities of the Parliament, President, Prime Minister, Government as well as the duties and rights of the citizens with regards to national security and defence.

The National Security Strategy and the National Military Strategy define a set of security and defence services to be provided to the society and provide guidelines for the build up and use of the defence institutions providing these services.

There are special laws on defence and armed forces (one or separate) to define the management level (defence establishment) and the production level (armed forces). The Law on the Armed Forces defines the status of the servicemen/servicewomen and forces in the society. An important part of the law is the set of internal rules for career advancement, which provide professionals, conscripts, and reservists with professional predictability and stability.

An important law for the defence establishment is the Law on Defence, which defines the main responsibilities and functions of the Parliament, President, Prime Minister, Government, and Minister of Defence, and identifies the main defence and security structures and practices. In addition to the Law on Defence there is the Organic Bylaw of the Ministry of Defence which defines the structures (permanent and consultative), the decision making process and the main practices in the Ministry. Further, the Law on Administration and the Law on Civil Service are also applicable to the defence management arrangements as well.

The White Paper on Defence and Armed Forces (Programs), and the Annual Defence Budget and Annual Report on Status of Defence and Armed Forces are document types especially appropriate for the analysis of accountability and transparency in defence policy.

The above documents are the result of serious studies, political consultations and public debate and have to be approved by the Parliament or the Government as public documents.

Functions and Structures

There are three main functions at the higher level:

- Formulation of policy.
- Implementation of policy.

- Audit control of implemented policy.

Especially for the military field the implementation function is divided into two sub-functions: administrative and operations.

The structures in the area of security and defence are designed and build to serve these three main functions. Another major concern guiding the design of the structures is to ensure the democratic civilian control of the armed forces and the establishment of democratic civil-military relations.

Generally speaking, the formulation of defence policy is performed by a political body, which is supported by think tanks, study teams, councils, study groups, etc. Others separate this function, however, 'data' from them is still needed, which makes it more open to external expertise. The formulation of defence policy is the most important decision making element of defence management. It includes strategic decisions that are introduced by white papers, political statements, ministerial guidance, decisions of the Parliament, Government, Prime Minister and the Minister (his deputies). It requires the creation of legislation, concepts, and strategies.

The administrative part of the implementation function requires a specialized administration, which has to be joint, civil-military one. It means that the specialized administration of defence includes civilian and military expertise needed to support policy formulation through providing data and experts for study teams and councils/working groups and, in addition, to provide real time implementation of this policy in the administrative area. The specialized administration is tasked by the Minister (and deputy ministers according to delegated responsibilities) and is coordinated by the Chief Secretary and the Chief of Defence Staff. Decisions made on this level are in the framework of decisions already made in the previous functional area.

The goal of the audit and control of policy implementation is to provide feedback to the Minister (and deputy ministers according to delegated responsibilities) needed for an assessment of the results of the policy and the effectiveness of the administration. The Inspectorate and a special unit for financial control perform this function.

The Operations function is specific for the defence area and is performed by joint operations structure, directly subordinate to the Minister (the only official responsible to the Government and Parliament for defence matters).

In the Ministry, there is a general administrative structure providing the support (administrative and IT support, including certain IT and administrative units) to all main functions. It also provides security (information, document, physical, personal, industrial) and public relations. The goal is to create a common administrative support entity and avoid duplication and waste of resources and efforts. This administrative support can be gradually outsourced according to the business rules and security limitations. If the administrative support structure is not common the structures with better administrative support will naturally attempt to dominate others because of resource power, including PR capacity and security rules. Accordingly, the creation of a common administrative support could be one of the efficient first steps in integration of the MoD and GS.

The main sub-functions/structures in the next level of the policy implementation in the administrative area are:

1. Personnel Policy, including certain education and training institutions.
2. Security and Defence Policy / International Cooperation, including research and analysis institutions, representatives abroad and information service.
3. Planning and Programming, including certain research and analysis institutions.
4. Armaments policy and development of arms complexes, including research and development institutions.
5. Procurement and Acquisition, including certain acquisition agency.
6. Infrastructure management and investments, including certain infrastructure agency.
7. Finances, including certain finance management institutions.

   For Production (Operations) Management, there is a joint structure responsible for operations:

1. J1 – Personnel
2. J2 – Intelligence
3. J3 – Operations
4. J4 –Logistics
5. J5 – Plans
6. J6 – Communication and information systems
7. J7 – Training
8. J8 – Budget
9. J9 – Civil-Military cooperation
10. Political adviser, Legal Adviser, etc.

For countries in transition, the first step is to define all functions on General Management and Production (Ops) Management level. The next step is to exclude any duplication between the General Management, which is responsible for building and sustaining of the Armed Forces, and the Production (ops) Management, which is responsible for planning and conduct of operations of different types, according to the laws and doctrines.

In defence management there are not only static structures but also a set of implementation dynamics embedded in councils, working groups and simply the flow of information. Therefore, even the well-designed static structure of the defence management institutions is not enough to attain the desired results alone--the real challenge is to achieve an efficiency of decision making, information flow, implementation, reporting and assessment. In this sense, the design of institutional arrangements cannot be limited to the listing of functions and structures with certain responsibilities for these functions, but has to include technology of functioning and relations between structures. In other words, instead of focusing only on 'structure owner' to consider 'functional process owner' which produce result by involving different structures in certain sequence.

Here we are coming to program approach embedded in the Planning Programming Budgeting System with certain extension in the area of Finance Management, Acquisition, Procurement and Auditing for different types of end results – building capabilities or using capabilities in operations. It means that in addition to administrative leaders there are program (result-oriented) leaders and, on the third axis, financial controllers with lists of paragraph appropriations according to functional areas for spending of the budget. The three parts have to agree – it means to control each other to achieve publicly stated results with existing structures and spending appropriations. Defence management has to provide an environment for the three parts to be balanced in their performance, which is the real dynamic challenge of the institutional arrangements.

Human resource management is another element of integrated resource management system with great importance. Last but not least in this family is the information resource management section of the system to optimise one of the most valuable resources of the organization – information and knowledge – directly related with another critical resource – time (mostly when time critical decisions have to be made with proper decision support systems).

During the transition period, in addition to ordinary management functions there are some specific ones:

1. Management of the reform: restructuring, downsizing connected with releasing people, utilization of equipment and infrastructure, closing bases.
2. Modernization of equipment and re-capitalization of the forces.
3. Increased role of Research and Development (R&D).
4. Professionalisation of the forces (closing of conscript service).
5. Increased role of Education and Training (E&T).
6. Increased participation in 'civil protection' type operations in the country and abroad as well as spread spectrum of international MOOTW.
7. Increased role of international cooperation.

The Reference Model of Defence Management

To analyse, compare, assess and plan improvements in more detailed form, there is a need of reference model/architecture of the defence management system on several levels: Euroatlantic community, state/society, MoD, main structures in MoD. Euroatlantic level is a network of state/society level coordination bodies to harmonize security policy and its implementation. It is a result of state/society level elements and bellow, which are in the focus of this paper. General reference model for defence management could be described as a network of interrelated institutions as presented bellow.

The National Assembly carries out the legislative foundations of Bulgaria's defence policy, including laws, budgets, ratification of international treaties, declaration of war, defence doctrines, regulations, etc. Approves and leads the implementation of the plans and programs for the build up and development of the

Armed Forces. Through its Parliamentary Commission on defence issues, and regular Parliamentary oversight sessions the National Assembly exercises an oversight of the Ministry of Defence and ensures the appropriate application of the system of legal and administrative provisions put in place by the NA.

The President is the commander-in-chief of the armed forces. The President chairs the National Security Advisory Council, which includes among others the Minister of Defence and the Prime Minister. He signs decrees for the promotion and appointment of senior officers, including the Chief of Defence Staff. In times of armed conflict or war, the President leads the Supreme Command, which executes the war (in case of general war).

The Council of Ministers, as the executive branch of government, participates in the formulation and implementation of defence policy. In this function, the Council of Ministers is assisted by the Security Council, which might include among others the President's representative. It introduces to the NA for adoption the National Security Strategy, National Military Strategy and other legislation concerning national security. In times of war, the Council of Ministers assists the President in his functions as commander-in-chief. Security council is authorized to perform crisis management operations.

The Minister of Defence is proposed by the Prime Minister and appointed by the National Assembly along with the rest of the cabinet members. The Minister of Defence leads and implements the state policy in the Ministry of Defence. He is the chief administrator of funds allocated to the Ministry of Defence.

Other Ministries and Agencies maintain legislatively prescribed relations with the Ministry of Defence, which provide for the proper peacetime functioning of the MoD and integrate the state institutions in the system of national security.

International organizations (UN, NATO, EU, OSCE). As an element of integration policy in European and Euro-Atlantic security institutions, the Ministry of Defence interacts with international organizations and, when directed, participates in joint activities, during peacetime and conflict.

Foreign Defence Ministries and Institutions. The Ministry of Defence maintains intensive relations with Foreign Defence Ministries and Institutions, on a bilateral or multilateral level.

Non-governmental Organizations. NGOs as part of civil society are a vital part of the civilian and democratic control of the Ministry of Defence. In addition, NGOs provide specialized expertise and stimulate the exchange of knowledge.

According to the Constitution, the institutions responsible for national security and, more specifically, for the formulation of defence policy are the President, the National Assembly and the Council of Ministers. The National Assembly establishes the legislative basis of national defence and exercises an oversight of the Ministry of Defence. The Government and the Minister of Defence are accountable to the National Assembly for the leadership and management of the Armed Forces.

In an annual report to the National Assembly, the Council of Minister identifies the risks and threats to the country and makes an assessment of the level of protection required to ensure the national interests. Accordingly, the Minister of Defence in coordination with the other institutions responsible for national security

formulates the defence policy as an element of the system of national security. The Council of Ministers allocates the resources related to defence. In this process, the National Assembly, the Prime Minister and the Defence Minister are assisted by the exchange of information, views, and ideas at the National Security Advisory Council, chaired by the President.

The permanent Security Council of the Council of Ministers and the Political Office of the Minister of Defence also assists the formulation of defence policy. The Security Council provides an information equal in volume and content to the President, the Chairman of the National Assembly, and the Prime Minister.

Political Parties and Non-governmental Organizations participate in the formulation of defence policy by providing political and expert alternatives as well as democratic oversight of the Ministry of Defence.

The main functions of the Minister of Defence include:

a.   Defence policy formulation. Assesses the defence and military capabilities of the country and formulates plans for the development of the Ministry of Defence in the context of the requirements of the Constitution, National Security Strategy, National Military Strategy and other relevant legislation in the national security system. Implements and controls the state policy in the Ministry of Defence. Coordinates and manages bilateral and multilateral relations with international organizations and states. In this function, the Minister is assisted by his Political Office.

b.   Planning and conduct of operations. Organizing, joint training, and employing the Armed Forces to carry out the missions assigned to the Ministry of Defence. In this function, the Minister is assisted by the Joint Operations Headquarters.

c.   Administering of defence policy implementation. In this function, the General Administration of the Ministry assists the Minister. The General Administration supports the functions of the Civilian Administration and the Military Administration.

d.   Control of implementation. In this function the Inspectorate and the Office of Financial Comptroller assist the Minister of Defence.

The Defence Council is the principle advisory body to the Minister of Defence assisting him in the administering of defence policy. It includes the Minister of Defence, Deputy Ministers, Parliamentary Secretary, Chief of Political Office, Chief Secretary, Chief of Defence, Chief of Joint Operations Headquarters, Chief of Joint Staff of Armed Forces, and Deputy Chief of Defence (Resources).

The Central Administration administers defence policy in the Ministry of Defence. Central Administration includes two branches—the Specialized (Civilian) Administration and the Joint Staff of Armed Forces (Military Administration), supported by third one – General Administration.

The functions of the <u>Specialized (Civilian) Administration</u> include the following:

a.   Defence planning.
b.   Human resources planning.
c.   Materiel, infrastructure and financial resources planning.

<u>The Joint Staff of Armed Forces (Military Administration)</u> constitutes the immediate military staff of the Minister of Defence.

<u>The Military Information Service</u> normally is under the direct supervision of the Minister of Defence and it is one of the main structures assisting the Minister in the formulation of defence policy. The service collects and analyses information, and prepares documents relevant to National Security and Defence Policy. This information could be submitted to the Prime Minister or the President through the Minister of Defence.

<u>Military Police Service</u> could be under the direct supervision of the Minister of Defence to perform the following functions:

a.   Maintains order in military areas and takes appropriate steps to prevent crime. Investigates criminal acts.
b.   Performs guard activities in the Ministry of Defence and its property and controls the traffic of military vehicles.
c.   Collects and analyses information related to the security and order in the Ministry of Defence.

In his administrative functions, the Minister of Defence is also assisted by the <u>Defence Staff College</u>, <u>Military Medical Academy</u>, <u>Executive Agencies</u> and <u>Defence Ministry's Companies</u>.

In administering of defence policy the Minister of Defence is assisted by the <u>Chief Secretary</u> and the <u>Deputy Chief of Defence (Resources)</u>.

In accordance with the Law on Administration, the <u>Chief Secretary</u> is the highest-ranked civil servant in the Ministry of Defence.

The <u>Chief of Defence</u> as the principal military advisor to the President, the Prime Minister and the Minister of Defence provides advice on the following: Strategic military planning; Development of Service and Joint Employment Doctrines; Military logistics; Arms and military equipment; Budget Assessment; Military risks assessment; Development of military capabilities; Assistance of civilian authorities; Joint operations; Collective defence operations; Wartime operations.

As the principal military advisor to the Minister of Defence, the Chief of Defence is assisted by his/her deputies. In his administering duties, the Chief of Defence is assisted by the <u>Deputy Chief of Defence (Resources)</u> who, along with the Chief Secretary, is responsible for the civilian administration. The Chief of Defence is assisted by the <u>Chief of Joint Staff of Armed Forces</u> in carrying out military duties and

by another <u>Deputy Chief of Defence (Operations)</u> who is also the <u>Chief of Joint Operations Command</u>. In addition, the Chief of Defence is assisted by a small <u>Office of the Chief of Defence</u>.

The Chief Secretary and the Deputy Chief of Defence (Resources) perform the following administering functions:

1)   Policy and Planning:

  a)   Defence policy, planning and integration
  b)   International military cooperation
  c)   J-5

2)   Human Resources Management:

  a)   Human resources and social policy
  b)   J-1

3)   Defence Support:

  a)   Infrastructure Planning and Management
  b)   Budget Planning and Management
  c)   Armaments Planning and Management
  d)   J-4

<u>The Joint Staff of Armed Forces</u> is an integral part of the Ministry of Defence and it provides assistance to the Minister of Defence in preparing development plans for the Armed Forces and the military defence strategy, and to the Chief of Joint Staff in carrying out his duties and functions. The main functions of the Joint Staff are to recruit, train, equip and sustain the Armed Forces for interoperable assignment. The Joint Staff also prepares territorial defence and mobilization plans for all the Armed Forces together with other Armed Forces structures and governmental institutions, which provide relevant data for the plans.

The Military Administration is led by the <u>Chief of Joint Staff</u> of the Armed Forces, who oversees the staffs of the military services and military commands.

1.   Chief of Staff of Land Forces.
2.   Chief of Staff Air Force.
3.   Chief of Staff Navy.
4.   Special Operations Forces Command.
5.   Communications and Information Systems Command.
6.   Logistics Command.
7.   Training Command.

- National Military University
- Training Centres / Bases

The Military Service Chiefs, as members of the Joint Staff, serve as military advisors and they may submit through the Chief of Defence, voluntary or when directed, opinion or advice to the Minister of Defence, the Prime Minister, or the President. When the Chief of Joint Staff presents his opinion to the Minister of Defence, he presents all range of opinions originating from the other chiefs. The Joint Staff of Armed Forces has no executive authority to command combatant forces. The chiefs of the Military Services are responsible to the Minister of Defence and the Chief of Joint Staff of Armed Forces for management of the Services. Military services assign all forces to Joint Operations Command except those assigned to carry out the mission of the Services, i.e., recruit, organize, supply, equip, train, service, mobilize, demobilize, administer and maintain their respective forces.

The Chief Secretary, performing its functions in accordance with the Law on Administration, leads the General Administration. The structure of the General Administration follows the same law and includes: General Office; Finances and Management; Legal Management; Defence and Mobilization; Asset Management; Information and Technology Management; Human Resources Management; Public Relations; Protocol.

The Joint Operations Staff is led by the Chief of Joint Operations Command who is also the Deputy Chief of Defence (Operations). The Joint Operations Staff is organizing, joint training, and employing the Armed Forces to carry out the missions assigned to the Ministry of Defence.

Immediate Reaction Forces (Joint Task Forces, Deployment Forces) are directly subordinated to the Joint Ops Command in order to be able to react immediately in crisis situation. These forces are assigned on a rotational basis from the three services and three of the commands. Extension of the forces is from the Deployment forces and Joint Ops HQ can contribute to CJTF (NRF, ERRF).

When directed by the Minister of Defence, the Chief of Joint Operations Command organizes the forces necessary to carry out the mission assigned to the Joint Operations Command, including all aspects of military operations, joint training, and logistics. The chain of command runs from the Minister of Defence to the commander of the operations through the Chief of Joint Operations Command. All communications are also submitted to the Chief of Defence.

Statutory oversight and control of the Defence Policy is exercised by the: National Assembly; General Accounting Office; Inspectorate; Military Police and Military Counterintelligence Department.

Civilian oversight and control of the Defence Policy is also exercised by the Media and NGOs.

In formulating defence policy, Minister of Defence is assisted by the Political Office and other structures. Statutory members of the Political Office are Deputy Defence Ministers, Chief of Political Office, Parliamentary Secretary, Spokesman of Minister of Defence, and assistants. The Defence Minister may direct the Chief of Defence to attend meetings of the Political Office.

A law should stipulate the conditions and method of declaring a state of war or another state of emergency. When a state of war or another emergency situation is declared, the President commands the defence of the country and/or takes decisions for the use of the Armed Forces. The President approves the plans for the preparations and conduct of combat operations and the defence of the country prepared by the <u>Supreme Command</u>. The Prime Minister directs the day-to-day operation of the Territorial Defence Command, which is created by the Joint Staff of the Armed Forces, and the Theatre of Military Operations Command, created by the Joint Operations Command. The Prime Minster also directs the local administration.

In its military functions, the Supreme Command is assisted by the <u>Staff of Supreme Command.</u> The Staff of Supreme Command is supported by the Specialized Administration of the Ministry of Defence and includes structures from the Presidential Administration and the Ministries and Agencies.

The Scope of Civil Society's Role

Civil society in the context of its interaction with defence management could be considered as a network of: citizens, non-governmental organizations (including international ones), academic institutions (involved in research and development, or education and training, business - defence industry and civil industry, media).

The development of civil society is one of the ultimate goals of democratisation and the first requirement of a mature democracy. As a matter of fact, there is no effective defence management without vivid civil society with interest and interaction with defence institutions.

It is more difficult to develop reference a model/architecture of civil society entities than it was for defence institutions. Nevertheless, in order to assess situations and to be able to plan improvements as well as to manage interactions and cooperation between defence management institutions and civil society, it is important to have at least a general description and common understanding about the roles and relations of civil society entities.

Civil society is playing a great role as a serious external pillar for SSR and main element of the environment of SSR. There are many aspects of the role of civil society connected with business, the academic sector, the media and NGOs.

To understand the role of business, it is important to mention the two steps in the economic dimension of the SSR - first is to separate from MoD, MoI and other ministries all activities and institutions that are not military but economic ones. Second is to strengthen the practice of outsourcing off all non-military activities on a competition basis. Under this policy, all construction, production, repair (overhaul) and maintenance units, farms, civil protection units could be separated from MoD and transformed in normal businesses – part of civil society.

The practice of the outsourcing of services could be introduced in the area of logistical support and especially in catering and facilities support, etc. It is one of the important steps in strengthening Public Private Partnership (PPP) in defence matters and in the forming of business associations to cooperate with state institutions in the area of national security and defence. A good example from Bulgaria has been the

activation of Business Executives for National Security Association, provoked by the study of *Economic Benefits from Bulgarian Membership in NATO* presented during Vilnius Group Summit in Sofia – October 2001.[6]

Through a set of agreements signed between MoD, NGO, Employers Associations, international institutions such as the Stability Pact/World Bank and on a bilateral international level, an environment could be created for pursuing successful solutions in released military resettlement areas. MoD could establish a special network of social adaptation centres to facilitate the process. The initiatives of retired officers and NCO associations are welcome to cooperate with such network.

The academic community is related to research and education. Currently with the reduction of the R&D capacity of MoD and Defence Industry, there is a natural way to involve this community by outsourcing the academic sector in technical areas (supporting acquisition, modernization and utilization plans) and with different studies (including Strategic Defence Review, White Paper, etc.). Issues related to the education and training of security area specialists and dual use areas require greater involvement from humanitarian and technical academic institutions. Framework agreements and joint committees established between MoD and many academic institutions and between academic institutions and defence industry companies are good examples of the possible ways of cooperation. For example, the Bulgarian Academy of Sciences (BAS), as a leading academic institution, established the Centre for National Security and Defence Research (CNSDR-BAS) in order to coordinate these efforts in cooperation with the Parliament, President's Office, the government, security sector ministries and agencies, industry and other academic institutions – it is a case to study from the Bulgarian experience.[7]

The educational dimension is even more critical, because it includes a larger number of people – not only in the defence education system, but also in civilian universities and even in secondary schools where security related studies are taught. The quality of academic bodies, the curricula and the use of modern technologies are critical in providing direct interactions between society and the defence establishment and to prepare the environment for effective cooperation.

In the media arena, there are normally some specialized entities - newspapers of the MoD, type of Military Journal, often there are efforts to establish type of Military TV channels, etc. In addition, routinely, there are special blocks in the national media (radio and TV) and specialized journalists in practically all printed and electronic media. In addition to the professional journalists, there have been increased numbers of publications and contributions made by the academic sector and NGO representatives. Normally, SSR related events are present in the news. In Bulgaria, through the executive agency 'Military Clubs and Information' in MoD, there is a good analysis available on the Internet of all printed media coverage on defence issues, that

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[6]   Tilcho Ivanov, Ralitza Mateeva, Todor Tagarev, *Economic Benefits from Bulgarian Membership in NATO*, Velizar Shalamanov (ed.) (Sofia: George C. Marshall-Bulgaria with the Centre for Liberal Strategies, October 2001), p. 69.

[7]   "Report #6: NATO Membership and the Challenges Facing the Bulgarian Parliament", SSR Coalition, Sofia, November 2003, p. 100.

when made public could improve the environment. Often, there are some worthy attempts to produce add movies for defence reform.[8]

A great deal of experience has already been gained in NGO-MoD and NGO-Parliament cooperation in the area of organizing public discussions and debates on defence policy, defence reform and modernization as well as the practical participation of NGOs in the resettlement of released military and information campaigns in many countries. Of great interest is the role being played by unions of retired military, veterans, alumni associations and youth organizations.

Another dimension of civil society is connected with the role of civilians in the National Security through the media, NGOs/academic and business sectors. It has provided for an opportunity for National Security to utilise the potential of retired uniformed professionals and some security experts not involved directly in internal party life during the opposition period.

The role of civilians in national security structures is twofold: in the area of policy definition (pure civilian responsibility) and policy implementation (joint work with uniformed professionals to provide optimal mix of expertise and guarantee effectiveness and transparency).

There are no universal solutions, but certainly there are two groups of balancing factors, among which can lead to an adequate level of transparency -one of the main roles played by civilians is in the security sector. First group - administration - civil society - business is a key for many other aspects of democracy, but the second is more specific: legislation - educated people - information technologies. As we have a long way to go in terms of reform, the issue of transparency will remain in our agenda for a long time to come. It is impossible to change overnight the system of a closed security sector culture, of only uniformed professionals loyal to the communist party to the system that works for society, which is accountable to society through elected civilians. Transparency is the most important tool and it can only be achieved through greater civilian participation in the security structures and a division of responsibilities in the areas of policy making and implementation. This division means clear mostly public political decisions that are implemented by the administration (civil-military) with results made public with the highest possible level of transparency in the area of budgeting, procurement, personnel policy and even operations.

This approach is a big challenge and mostly for the civilians. They have to enter a specific area which needs special education and training. For civil servants, good career opportunities are motivation enough if a sense of real stability can be achieved in terms of the administration structures. For experts in the policy development area, close to the elected civilians, stability can be achieved through NGOs, the academic and business sectors, as well as through the development of a solid capacity in the internal political parties. In lieu of achieving a certain sense of stability for civilians that might be comparable to the stability of uniformed

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[8] *Defence and Security Sector Governance and Reform in South East Europe: Insights and Perspectives*, Jan A. Trapans and Philipp H. Fluri (eds.) (Geneva, Geneva Centre for the Democratic Control of Armed Forces, 2003), vol. I, II. Available at: http://www.dcaf.ch/publications/defence_ssg_see.cfm?nav1=4&nav2=2

professionals, it would be very difficult to build trust. And, of course, to support such changes and to provide this continuity and stability, transparency, education and new technologies are required.

The measure of success of civilian involvement in the national security system is reflected by society's satisfaction with the security sector - public support for the sector on one side and the shape of civil-military relations within the security sector on the other.

Undoubtedly, a serious challenge to the involvement of civilians in the security sector is generated by the process of democratic rotation of the political parties in power and in opposition. To stabilize the situation of civil servants working in administration and think tank bodies for policy-making/shaping represents an important task that follows on from initial changes – introducing civilians into the decision-making and implementation elements of the national security system legislatively and practically, as well as in terms of preparation of the first group of 'knowledgeable' civilians.

Finding a solution to this final challenging issue will prove that the system is self-sustainable.

Interaction Between Defence Institutions and Civil Society

As it has been mentioned, transparency is a key for any valuable interaction between defence institutions and civil society - it is practically the single most important factor for success of the defence reform.

The process of establishing transparency is very difficult because of many reasons to mention only a few:

- legacy in legislation, administrative culture, social attitude;
- serious and well organized (professionally) resistance of the security sector personnel;
- lack of an external expertise;
- sensitivity of the sector preventing deep international cooperation;
- lack of resource management tools and resources themselves for the new elected governments on one side and large amount of 'unregistered' resources available for security sector.

Importance of transparency is based at least on the following reasons:

- Transparency is the only way to achieve informed public debate of security sector matters and as result of that public support;
- Transparency is not a goal in itself but a tool to achieve 'security and stability' of the security sector and to prove that it works for the citizens of the democratic country, that pay taxes for the budget - not for someone else;

- Transparency is the best tool against corruption, violation of law, protection of a nation's interests and, even more, citizens' interests;
- Transparency is a base for civil military relations and a key requirement for NATO and EU integration/partnership.

There are many problems in the inherited environment, because of:

- Level of secrecy in former military and security system;
- High level of isolation of the security sector personnel from society as a 'caste';
- Lack of external expertise on security sector issues;
- Resources issue in transition period – there are more 'unregistered', hidden resources than available for the legitimate management bodies to control;
- Too great a dependence on the former Soviet Union secret services and technology;
- Too many serious social problems that detract attention from security sector;
- Infiltration of the security services people in key political and economic positions in the transition period;
- Too deep a transformation in the security and defence environment and policy for short period of time;
- Low level of implementation of modern information technologies;
- Extremely conservative education system in the security sector area.

Transparency is to be achieved at least at three levels:

- Information on defence policy and its implementation;
- Resources management and personnel management/budget management in particular;
- Acquisition and procurement process and long-term programs in particular.

Transparency needs adequate legislation, structures to implement this legislation, especially civil control and parliamentarian oversight, but most of all in current dynamic environment two factors – well educated people and modern information systems are the keys for success.

Experience proves that transparency is difficult to achieve if the bureaucracy is immature and is inadequately built to house a modern administration – it requires clear rules and structures that are implemented by educated people, supported by IT applications and administered under political leadership and oversight. This is why guaranteeing transparency is not easy. It is not a one step process. In parallel, there have to be efforts in legislation, in education and a selection of people capable of build modern information systems.

The task, therefore, is to find this optimal level of transparency and to guarantee that it is maintained in an objective way. Because it is impossible to write

down everything about access to information the rules can be objectively implemented as a result of a balance between the interests of administration, society and business to ask for and to provide information through effective means. It means that transparency can be measured as a level of the effectiveness of the administration and a level of satisfaction of civil society and business. Transparency is on the right level when administration is working effectively enough and, at the same time, when civil society and business are satisfied with the performance of the administration. This can be measured in such a way only if the three elements are independent - this means administration, business and civil society are not directly dependent from one of them or dominating others.

So legislation and good wishes alone are not enough for transparency - it is something between groups of people and connected with information. This is why education/culture and information technology implementation are so crucial for achieving certain optimal levels of transparency that can be preconditioned by legislation.

While legislation is what we have to start with, one cannot think that this will automatically lead to transparency.

It is people alone that can ask questions and people alone that can accept that it is a legitimate right of society to know about security sector policy, its implementation, resources, effectiveness and efficiency– to provide for it and to use the opportunities it provides.

Unfortunately people cannot be changed or re-educated in one day, and culture is not entirely alterable even in 10 years. And even if we have educated or at least trained people if we don't use them proper way transparency will not happen. Education itself is very complex task and in transition it can be solved using parallel approaches:

- Send people to study abroad in prominent institutions – as an example it was started in 1992 with IMET and now in Bulgaria there is large international education and training program with the US, the UK, France, Germany, the Netherlands, Greece, Turkey, Spain, Italy, Portugal, Switzerland, Austria and NATO;
- Start deep reform in the national security sector educational system, using tools of international cooperation, joint projects, using big part of educated abroad people to be teachers and to 'train the trainers' – Faculty on National Security and Defence in Defence Staff College is very good example in this area;
- Arrange short-term training courses that are focused on new rules, new technologies with an emphasis on lessons learned to improve this training (language training is one of the most important issue in this respect) – the Interoperability Centre (with lessons learnt section) is just one step in this direction;
- Certification process that will guarantee high standards and measurement of the progress is very important element in this direction.

To have an effective selection and promotion system requires, above all else, transparency. It necessitates a second level of transparency - resource management, in particular human resource management to be effective. This is why the second pillar of transparency after legislation relates to personnel policy.

A personnel policy that introduces an objective assessment according to performance connected with the implementation of legislation and other normative acts and the spirit of reform and transparency will provide a favourable environment for transparency itself. A personnel policy based on 'friendship' and personal contacts, which privileges personal needs rather than institution policy, will jeopardise hopes for transparency. The most serious threat to transparency is a lack of professional expertise and desire to use public resources unfairly for personal profit.

Nowadays, the two most important characteristics of this transition are speed and complexity. It is impossible without modern information technologies to even 'track' the decisions made as to how to analyse and synchronize them and, even more, to establish oversight and control.

Even well educated and motivated people cannot provide favourable conditions for a transparent environment without an effective system to 'publish for public use' data in near 'real time' following the internal rules for protection of classified information.

The implementation of modern information technologies itself is not a solution without a reengineering of the processes and their optimisation, including aspects of transparency. The management of information resources itself is already one of the most difficult processes to implement successfully.

At the same time, the role of information technologies for transparency is rising up again the issue of educated people - only people with a certain level of computer literacy can work and utilise the opportunities provided by the new environment.

It means that the third pillar of transparency after legislation and people is IT, but its implementation is dependent on both legislation and educated people. So, by balancing the three elements of legislation, people and IT systems, one can more safely provide for the optimal chance for transparency. There are three basic laws - for access to public information, for protection of personal data and for protection of classified information that creates a base for the balance between administration, civil society and business. A law for information resources management is needed in order to materialize the provisions of the first three laws.

Transparency is just to prove that security is needed in security sector and balance between 'freedom of information' and 'protection of information' is a critical issue. Of course for different users access to information is different – as level of classification and as 'need to know' criterion. It is up to an IT specialist to find a technical solution to protect sensitive information, to provide integrity of information, convenient access for different categories of users and to 'assure' this access.

There is another aspect, connected with having two pictures – internal and public. Simply public picture can be less informative, aggregated, but not misleading,

confusing, uncertain. And politicians are responsible for establishing a public picture that adequately equates to the internal picture of the security sector.

In the transition period when main problem is to overcome as soon as possible legacy from the past that as a rule is inadequate and troublesome for the future the level of transparency need to be higher. It this period as a rule areas outside security sector gain experience faster than security sector in the environment of the new realities and more transparency more partnership with civil society and business are of vital importance for the security sector administration. In this period radical changes in the legislation have to be made, radical introduction of new educated people and intensive introduction of modern information technologies are tolls to increase transparency and to facilitate changes in the security sector. As a rule after certain period when new concepts will be implemented and system will enter more stable period the level of transparency will go down, because interest of society and business will be lower.

Because of many difficulties in providing transparency it cannot be expected that it will come without special efforts to be made. And when it comes to efforts and resources it is good to have a strategy. Important to mention about transparency is that it cannot be achieved with unilateral efforts of administration, neither of civil society or business sector. There is a need for complex approach and coordinated steps taken from many players.

The role of NGOs cannot be overestimated. The practice of the annual review and assessment of levels of transparency in the security sector through the evaluation of specific cases in the area of defence and security policy definition / implementation, resource management/budget and especially in the area of procurement and acquisition will be of great support to develop a culture of transparency. It will require the support of Parliaments, business and international organizations.[9] Even more – international projects (for example transparency of defence budgets project for SEE) for analysis of the transparency practices can be used as a powerful tool to build such a culture. It is understood that secrecy is defended mostly by those who emphasise the secrecy operating in their neighbouring countries.

Transparency, especially in transition periods can assist the business world in exploiting opportunities of transformation when a lot of business activity is needed to support the change. So, the role of business and business associations is very important in promoting the transparency culture.

There are many steps to be taken – some of them in parallel:

1. Clear definition of the security sector – missions, responsibilities, resources, management;
2. Building of community of professionals – civilian and military;
3. Rising up of public awareness about the security sector – what it produces and how resources are used for achieving the results;

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[9] Velizar Shalamanov, Lyubomir Ivanov, Petya Dimitrova, *NATO Membership Readiness Indicator* (Sofia: George C. Marshall-Bulgaria with the Atlantic Club in Bulgaria, September 2001), p. 36.

4.   Providing adequate education nationwide on security sector issues;
5.   Providing modern information systems for security sector management;
6.   Institutionalising of the society's participation in the security sector debate, including through NGO and business organizations;
7.   Promoting transparency practices at the regional and international level.

Based on an environment of transparency, accountability and responsibility, the interactions between defence management and civil society could be manifold:

- MoD and Government – NGOs, academic sector and business, media;
- Parliament – NGO, academic sector and business, media;
- Civilians and military in MoD;
- MoD and Government – Parliament;
- Between NGOs, business, media, academic institutions themselves on defence management issues;
- National administration – international organizations;
- Among civil society elements on the regional basis.

Transparency is only one – even most important – precondition for the successful cooperation between defence management institutions and civil society. Transparency itself has to be secured by law, but even more important is to develop successful models for cooperation and to embed them in legislation.

In the kernel of cooperation models are clear architectures of defence management, civil society and established links for interaction. Models of cooperation have defined how this environment might be used for achieving concrete goals of good governance in the defence sector.

Models of Cooperation between Defence Institutions and Civil Society

There are different general models of cooperation – starting with fully centralized (society to Parliament, Parliament to Government, Government to Defence Staff) to fully decentralized when every element of civil society could directly cooperate with any element of the defence establishment.

Of course, the optimal model sits somewhere in between and could be optimised to achieve the goal of balance between efficiency and civil control, having in mind certain levels of maturity in relation to the defence institutions, civil society elements and culture of cooperation in the country.

The role of civil society is to generate ideas and to ask for transparency, accountability and responsibility, as well as to back up reformists' efforts in the Government. An example of the SSR Coalition in Bulgaria is something to explore in its effort to produce a report to the Parliament every four months assessing the progress of SSR and making recommendations for improvements in the situation through the

mechanisms of Parliamentarian activity.[10] This community publishes a bi-monthly newsletter 'Security Watch: Security Problems and SSR' to identify good ideas for improving of security environment and needed changes in defence and the security sector at large. Official presentation through public lectures, round tables and seminars facilitates introduction of these ideas to the political and management institutions.

A key role in generating valuable support and good ideas has come from the organizations of reserve officers and NCOs – but they developed before the communist period and they were educated/trained in NATO countries after democratic changes. A very positive example from Bulgaria is the Association of the His Excellency Military School Graduates (Military Academy before 1944) and Association of Reserve Officers 'Atlantic' – formed last year by retired graduates of Western defence colleges/courses with pro-Atlantic/Transatlantic thinking. A key role of cooperation between defence institutions and these unions has been played through the promotion of core values – from the military history of the country and common Atlantic values as well.

The academic sector model of cooperation with defence institutions operates by invoking scientific methods in decision-making and, especially, in providing a comprehensive approach to SSR, transformation and, in particular, modernization of the forces. The established centre for NS and Defence Research at the Bulgarian Academy of Sciences and set of courses on Security Policy and SSR in Sofia University as well as many other universities is an example to be explored by Bulgaria's neighbours. A good example to mention is the established National Science Coordination Committee to the Government in the area of protection of the population and infrastructure with its seven expert groups ranging from NBC protection through to seismic/hydrological studies to the protection of critical infrastructure and development of an integrated emergency management system. Leadership from the Government's side – minister Husmenova and from the Academy's side – Academician Sabotinov are great examples of cooperation in the areas covered by MoD and MoI, as well as special services.

The business community is cooperating with the defence establishment in transferring best practices to resource management, by asking for the outsourcing of non-military activities, facilitating offset deals in modernization and by being a partner in post-conflict reconstruction in the area of operations. The BENS Association has been established to support security sector institutions from the point of view of the employers. It is a good example of the information exchange that is occurring between countries. BENS – Bulgaria follows the experience of the US BENS and works closely with American Chamber of Commerce and local business associations creating new environments for cooperation - in the form of regular meetings, conferences, seminars, inviting guest speakers to lead discussions on development and to provide special reports with recommendations.

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[10] Velizar Shalamanov, Lyubomir Ivanov, Petya Dimitrova, *NATO Membership Readiness Indicator* (Sofia: George C. Marshall-Bulgaria with the Atlantic Club in Bulgaria, September 2001), p. 36.

Consultants – national and especially international ones present other models of cooperation by further increasing transparency and providing a source of expertise for the development of alternatives, as well as by providing a better understanding between parties in the decision making process. The model of cooperation that they follow is one based on participation through a non-partisan, expert based approach to decision making, while, at the same time, remaining involved in the activities of the academic sector, NGOs and business organizations.

The media cooperates with defence institutions by providing special investigations on key issues in society and keeping society regularly informed about developments in the area of defence (locally, nationally and in the Euroatlantic area) through the maintenance of constant links with the PR offices of the different defence organizations. The media acts as a mediator between the defence institutions, the academic and NGO sector, business and society and serves to increase transparency and promote debates on different alternatives.

Different models of cooperation are implemented in many different functional areas, described bellow in order to identify the scope of interaction and good practices. Civil society is a key element for the successful transformation and effective functioning of defence. With its different organizations, methods of work and interaction with defence management institutions, civil society participates in all main functions of the defence establishment and, most significantly, provides the framework for civil control and assessment.

Participation of Civil Society in Policy Development

Starting with the identification of national values, goals, interests and priorities, assessment of threats and risks, through to the development of policies and building of institutions, and finishing with the distribution of the resources required for the implementation of security programs – the whole policy development process has to be open for participation of civil society if it is aimed at the providing of security to citizens, society and the state.[11] Civil society is not only a participant but also the main engine for the comprehensive strategic review of the security sector. It is simply impossible to talk about democratic governance and not to involve civil society in threat assessment and security sector structuring. It is even impossible to have a comprehensive solution in these areas in the modern world without a system using the capacity of civil society.[12]

Because this is a sphere of state monopoly to use force and because it is related to national sovereignty, there are legitimate reasons for regulation and the

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[11] Hans Born, Philipp H. Fluri and Anders Johnsson, *Parliamentary Oversight of the Security Sector: Principles, Mechanisms and Practices*, Handbook for Parliamentarians No5, 2003, DCAF-IPU, p. 195. Available at:
http://www.dcaf.ch/oversight/proj_english.cfm?navsub1=12&navsub2=3&nav1=3

[12] Konstantin Dimitrov, Velizar Shalamanov and Blagovest Tashev, *Methodology for the Security Environment Assessment* (Sofia: Institute for Euroatlantic Security and Ministry of Defense, December 2002), p. 100.

introduction of certain levels of secrecy. But the essence of these regulations is to make the defence establishment transparent and accountable to society. To achieve this goal, there is a need for publicly stated goals, priorities, rules/procedures to achieve claimed results and a distribution of resources. The formulation of these elements of defence policy is considered to be a process of interaction and cooperation between the defence establishment and civil society.

Civilian Control: Civil Society's Involvement in Policy Implementation

Plans are plans, but we live through their implementation. Civil society is not simply in power to control implementation – it is a key player of the implementation process. Results based monitoring and assessments are key instrument for control. This approach provides for opportunities to involve civil society in achieving certain results and, in such a way, provides for greater control through participation. It is especially the case with the academic sector and business as part of civil society. These two entities are directly contributing to the quality of defence.

Policy is implemented through the education and training of the population, where the role of NGOs and universities, even secondary schools is tremendous. Finally, as an organized reserve is contributing directly to defence, there is a large space for the building of civil guard type organizations as part of the state/community and civil society to perform specific missions in the area of civil security in close cooperation with the defence establishment, directly contributing to the implementation of security and defence policy.

Providing Public Support and Resources for Defence

Without public support, any defence/security policy is unsustainable in the long term. Even after achieving the goal of NATO integration, which has been and still is the case in many countries, the role of civil society to sustain public support for continued reforms, participation in operations and preparation for new challenges has further increased. It can be achieved only through informed debate, the development of new ideas and by supporting the Government and Parliament's role in the shaping and implementation of defence policy.[13]

Defence policy implementation needs not only public support and ideas, but also a large amount of different resources in peacetime and a large mobilization of additional resources during emergencies, crisis management and other operations, not to mention full-scale war. These resources and, especially, the effective mobilization of civilian resources depends most of all on the understanding, support and readiness to participate by the civil society players – citizens and business.

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[13] Blagovest Tashev, Velizar Shalamanov, Plamen Bonchev, Todor Tagarev, Dobromir Totev, *Bulgaria's Roadmap to NATO after Prague* (Sofia: Institute of Euroatlantic Security, 2004), p. 86.

The development of modern forms of Private-Public Partnership is the best way to provide both support and resources through the involvement of business and citizens in defence related activities.

Civil Society as a Factor for Security Sector Integration around the Concepts of Human and Civil Security

Security is an integral phenomenon. Society is not interested so much in 'who is who' in the security sector and how different elements cooperate – first of all society and every citizen requires integral perception of security at anytime and anyplace.

More and more security is accepted through the concept of civil security and integrated security sector.[14] Analysis could be focused on a number of different notions for denotation of the unified system for the management of crises caused by natural disasters, accidents and catastrophes and for the protection of citizens and infrastructure: civil defence; security of the living environment; public security (*societal security* has been adopted in Scandinavian countries and is considered as an analogue to the American *homeland security)*; protection of the population (citizens) and infrastructure; security of citizens and infrastructure; civil protection; *human security*; *civil security.*

The most recommended term within the larger Euro-Atlantic context is 'civil security' (adopted, for example, in France and Belgium). The creation of a Bulgarian concept of civil security as an example was sought as a balance between the approach of the US and different European countries by taking into consideration the experience and the situation in Bulgaria with the aim of establishing the best possible environment for the efficient implementation of the Law on Crises Management.

The civil security system could be established as an independent third 'pillar' of the security sector, which is equally important to the other two 'pillars' of security – internal security and public order (mainly provided for by the Ministry of the Interior) and external security and military operations (mainly provided for by the Ministry of Defence).[15] Consequently, it should have a well-defined normative regulation and a solid institutional dimension.

The civil security system is built to the highest extent with active civil participation and civil control as compared to the other elements of the security sector. The establishment of an efficient civil security system presents an opening for the maintenance of well-balanced civil-military relations and clear-cut distribution of obligations during different types of crises.

The civil security system should be established on the principle of decentralization. Special importance is rendered to the local units of civil security (controlled by the local authorities) that give the initial response upon the rise of threats

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[14] Konstantin Dimitrov, Velizar Shalamanov, *NATO Integration Program for the Republic of Bulgaria* (Sofia: Institute of Euroatlantic Security, 2002), p. 100.

[15] We should add to these three pillars also foreign politics and diplomacy (particularly the protection of Bulgarian nationals and property abroad) conducted by the Ministry of Foreign Affairs.

related to civilians and infrastructure. This peculiarity of the system for civil security corresponds directly to the process of establishing an electronic government (e-government), including on the local level. If the transformation process is well managed, 'security' as a service could be provided along with other administrative services as a 'one-stop-shop' service (on the Internet or a single emergency and non-emergency phone number). Much could be borrowed in this respect from the experience of the Emergency Call Centres established on all levels of the administrative-territorial units in the US and EU countries.

The principle of decentralization does not bring to an end the need for an overall coordination and control implemented by the 'central units' of the civil security system – the National Centre for Crises Management, the Civil Protection State Agency and the Permanent Committee for Protection of the Population on Government level.

The successful transformation of the population and critical infrastructure protection system into a civil security system will be both a test and a major step towards the establishment of an integrated security sector and effective cooperation between institutions and civil society. Even in the case when the civil security system is not developed as a 'separate pillar', the Civil Security Concept could become the conceptual basis for a successful security sector transformation process. In this sense, the Civil Security Concept could be interpreted as an upgrade of the Security Sector Integration Concept. Moreover, transcending beyond 'national security', the Civil Security Concept provides an opportunity to formulate a Security Sector Maturity Model applicable to the whole Euro-Atlantic geopolitical space.

Such a task of transforming the national security system to include a civil security concept is a great challenge for the effective cooperation between civil society and defence/interior management institutions. In order to support analytically the different forms of cooperation between civil society and defence institutions in Bulgaria as an example, the existing Centre for NS and defence research was developed as the Centre of Excellence (CoE) in Security Sector Transformation. Development of the Civil Security System is a good example of the transformation effort. It is a process which requires specific methodology to be implemented and the key to this is the interdisciplinary character of the issue. Based on the experience of many projects – from the White Paper on Defence through to the transformation of largest defence company TEREM and to the White Paper on Civil Security, an idea to form a Centre of Excellence in Security Sector Transformation (CoE in SST) has been developed. CoE consists of the following elements:

1.   Communication and Information Infrastructure (CII)
2.   Working Groups (WG)
3.   Knowledge Infrastructure (KI)
4.   Expert Network (EN)

CII includes a central hub with servers and workstations linked to the Internet. It has distributed a virtual network of workstations of the WG members. **WG** are in the following areas: WG1 - Security Policy and Strategies; WG2 - Integrated Security

Sector Architecture and Change Management; WG3 - New technologies in security and defence.

KI consists of: theoretical models in the security and security sector areas; computer (software) models; literature and selected publications; accomplished projects in CoE; produced papers. The KI is managed in the set of matrixes to establish cross references between problems and methods to support their resolution in order with easy to form strategies (networks) of steps for the decision making process in resolving any security/SSR problem.

One of the key elements of the CoE is the **Expert Network** built around participation in conferences, editorial boards, NATO SC panels, PfP Consortium, DCAF, CESS, and other international security related organizations and programs. Of course, EN is an extension to the WG and KI. One of the key elements of the EN/KI is the capability to deliver knowledge through different courses, including in the ADL/CAX environment.

The development of such types of support for the decision making and implementation of security sector transformation has proven to be critical particularly in relation to the problem of building the necessary architecture for network based capabilities, such as in the area of civil security.

The best way to achieve a comprehensive understanding of security and to plan for the transformation of its institutions as an integrated security sector is through multidisciplinary joint/multinational studies. As in the theory and practice of computer networking, the architectural approach has proven to be the best tool – such an instrument is needed for change management in the area of security and the security sector.

On the international level, models of successful cooperation between defence institutions and civil society entities could be drafted by analysing the activities of:

- Atlantic Treaty Association (ATA) and national Atlantic associations in different countries;
- PfP Consortium of defence Academies and Security Study Institutes and its working groups and Annual conferences;
- NATO Science Committee and especially new established Human and Societal Dynamics Panel as well as other Public Diplomacy programs of NATO;
- Regional arrangements to involve civil society in pure administrative initiatives as SEEDM, BSI for CMEP, MVLE and others;
- Pure NGO activities as BSCR Civil Control Consortium (will be considered below).

Challenges and Opportunities

Interaction and cooperation between civil society and defence management depends on the level of maturity of both sides. It is an issue of the internal efforts for the country,

but could be greatly facilitated by external support and in the framework of international cooperation.[16]

To identify different challenges and opportunities, it is again very useful to use the architecture of the defence sector (security sector) and its environment to include civil society elements. This architecture includes national and international elements. An analysis of the architecture of cooperation between defence systems and civil society results in an awareness of where to focus efforts. Current experience discussed especially as lessons learned from the defence reform process of the last 10 new NATO members underlines the following problems:

1. Best use of critical human resources, especially people who have graduated abroad in NATO countries – civilian, retired military and active military.
2. Reform of the MoI not to be postponed, focusing mostly in MoD and creating tension and negative attitudes towards defence reform.
3. Postponing special services reforms is a factor of negative influence in the area of all other reforms – not only in the security sector, but also in the political, economic and other spheres.
4. Professionalisation of the Armed Forces by abandoning the conscript service to be accelerated in parallel with downsizing and prior to full scale modernization, but in parallel with the building of a Reserve and Civil Guard.
5. Challenges of modernization, especially in the area of corruption tension and lack of management capacity could ruin other aspects of on going reform. In many countries, new weapon systems could not be procured only at the national level keeping in mind the scale, regional integration as result of membership in one defence alliance and other arguments.
6. Utilization of excess equipment, infrastructure, and munitions could generate a negative influence if not divided between reform efforts and managed separately.
7. The National Defence Industry and R&D if not addressed properly in parallel to security sector reform and modernization, including through similar restructuring, retraining and reintegration programs to the military could generate social problems, cases of illegal arms trade and degradation of national capacity for joint programs in Euroatlantic community.
8. E&T in security matters, especially military education and the interior education system is critical and if transformation here is not successful or if changes are too chaotic the result is negative in the long term.

Practically all the above-mentioned problems require cooperation between the defence institutions and civil society to be addressed in the proper way. Furthermore, there is a great need for regional cooperation to consolidate positive changes, to concentrate on

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[16] Velizar Shalamanov, "Progress and Problems in Security Sector Reform in Western Balkans: Is there a Universal Solution?" pp. 51-66 in *Security Sector Governance in the Western Balkans 2004*, Istvan Gyrmati and Scott Vesel (eds.) (Nomos Verlagsgesellschaft, Baden-Baden, 2004), p. 236.

reform and joint actions instead of suspicion and the waste of resources, as well as duplication on a regional basis. Regional cooperation requires civil society support to be successful.

Many of the above challenges could be met through more intensive regional cooperation at the civil society level. In this context, it is useful to mention the Black Sea-Caspian Democratic Control Consortium, which was founded on 27 November 2004 in Kiev by NGOs from eight countries from the Black Sea-Caspian region (BSCR), incl. Armenia, Azerbaijan, Bulgaria, Georgia, Moldova, Romania, Turkey and the Ukraine. On the initiative of the Centre for International Security and Strategic Studies (CISSS), the Ukraine is one step towards strengthening civil society networking in this key region to support defence reform.

Objectives and priorities of the Consortium include:

- consolidation of the NGOs' efforts supporting democratic transformations of the region;
- rapprochement of the positions of the participating countries on democratic control (DC) and regional security;
- establishment of a system of effective monitoring over the level of DC and the state of national and regional security by the means of an identical methodology;
- development of a Security Sector (SS) Maturity Model and elaboration of Methodology for SS Maturity Assessment;
- establishment of a network of the web-sites and periodicals of the participating organizations and national institutions; coordination of their activities and exchange of information, incl. publication of the periodical of the Consortium 'Democratic Control and Regional Security';
- establishment of a Black Sea-Caspian Virtual Distributed ADL College.

It is a great initiative and its success could be considered as an indicator of the maturity of democracy and development of civil society. Sometimes it takes years for such initiatives to mature, especially without enough initial funding and measurement of success mechanisms. It is important to start in time and to keep moving forward by using the best practices required for the interaction and cooperation between defence institutions and civil society.

Conclusion

Successful interaction and cooperation depends on people, culture and existing institutions, knowledge, information systems.

There is a visible need to have in parallel to the programs for the improvement of defence management through defence institution building a set of adequate projects of increasing the maturity of the civil society players as NGO, academic institutions,

media, business – defence as well as civilian one, every citizen capacity to interact and cooperate with defence establishment.

SSR is a relatively new concept, very popular in certain regions with countries in transition and post conflict reconstruction.[17] Because of the rigorous process of change, discussions about first and second generation of reforms are already underway. The second generation of SSR is focused on improving the operation of institutions, with the achievement of a fully integrated security sector as its end goal. Preparation of this third generation SSR could start earlier having in mind the target model. This preparation is performed through working on:

1.   Constitutional issues – introduction of a Security Sector instead of the Armed Forces in the Constitution.
2.   Security strategy development based on a new vision for security and an integrated security sector oriented towards the citizen.
3.   Harmonization of legislation between different elements of the security sector on the national, regional and Euroatlantic levels.
4.   Administrative capacity and coordination. Security Council of the Government as an integrated body of the integrated security sector.
5.   Integrated Operations – planning, training and performing.
6.   Integrated Support – planning, capabilities development and maintenance.
7.   Multinational formations – capabilities and mission oriented to the priorities of the region.

One way or another, these issues, in addition to social aspects of defence reform, are at the centre of interaction between defence institutions and civil society. From one side, these areas are of national responsibility and, in many cases, considered as pure government business, but on another they represent areas of great societal interest and many of them cannot be decided upon at the national level alone without consultations with allies or regional partners. This is because:

1.   As well as being a regional issue, security is also a Euro-Atlantic issue and with the key role of the US – Russian influence cannot be neglected in the region of the SEE, Black Sea – Caspian region, Central Asia and the greater Middle East at large.
2.   Progress measurement is based on comparative analysis between countries with similar backgrounds and goals from the region.
3.   Transfer of knowledge from the SEE through to the Black Sea to the Caspian Sea and Central Asia is a key idea of enlarging the zone of freedom and democracy as the best way to provide security.
4.   Small countries need regional integration for effective program management and development of their national security sector – especially in the area of E&T, R&D, modernization, infrastructure and the hosting of allies.

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[17]   Alan Bryden, Heiner Hanggi (eds.), *Reform and Reconstruction of the Security Sector*, LIT: Munster, 2004, p. 275.

5. Multinational formations are key for improved international cooperation and strengthening of transatlantic link as well as integration of the security sector.
6. Security is a prerequisite for infrastructure and vice versa. Infrastructure is the key issue for development of the BSCR.
7. The BSCR, the SSR Centre and the network of CoE play important roles in facilitating transformation and their cooperation represents an important step towards the Adriatic Charter countries integration in NATO and the improvement of PfP Eastward as well as the transfer of knowledge to MD countries and ICI countries.

In this sense, an initiative could be formulated to establish the **BSCR Centre for SSR (Security and Integration Centre)**. A good example is the Geneva Centre for the Democratic Control of Armed Forces. The centre could be based on a public private partnership between the Government and NGO retaining a focus on change management and the transformation of the Security Sector with society's involvement.

The Centre could include: management; a research section and a think-tank department; a training section with mobile teams for an outreach department; an IT section with PIMS management for BSCR; a lessons learned section with a library for knowledge (International Journal) management; conference and networking support (Newsletter) team; and technical staff. It means that the centre would be an integral body to support research/lessons learned, networking, training, IT environment management and knowledge management at large.

The centre would work to establish a BSCR Virtual Distributed University (VDU) for Security and Integration (Good Governance of Security Sector) based on PIMS, ADL and CAX around the MVLE (multinational virtual learning environment) project defined by US-Bulgarian MoU. Added value would be given to the centre through the institutionalisation of the idea of Partnership for Security in BSCR as a model for other greater Middle East sub-regions.

Such an arrangement would act to directly support defence reform and institution building by facilitating the interaction and cooperation between administration and civil society at the regional level.

Maintaining a balance between defence institution building and civil society development is a prerequisite for the effective interaction and cooperation between them. An even more effective defence establishment could not be developed without allowing for civil society's participation in the process. It is only through the involvement of civil society bodies that the implementation of the concept of civil security and an integrated security sector can be made possible. Establishing regional cooperation and following the common reference models are key tools for success.

Executive Summary – PAP-DIB Sourcebook

By Joseph L. Derdzinski

In the second full decade since the *de facto* end of Communism in Central and Eastern Europe, the implications of the respective transition from authoritarianism continue to be recognized. Because of the inordinate emphasis on military and defence structures during the Cold War, the shift to politically liberal governance left monolithic militaries formed around one particular threat: the West. The 1990's demonstrated the travails the newly independent (and democratic) governments of Central and Eastern Europe faced in consolidating democratic control over their national armed forces. The works in this volume address those challenges. Covering the full spectrum of democratic responsiveness, from the philosophical discussions over the importance of democratic control to the more concrete – and equally important – areas of budgeting and personnel management, this volume provides lessons for states that continue to seek guidance in consolidating democratic control over their defence structures as well as those that aim to continue the course toward fully professional armed forces and security institutions. This executive summary not only addresses each article, but seeks the pertinent lessons that each offers as states across Europe continue in their efforts to improve their governance in general and their defence sectors in particular.

Security and Defence

The rise in prominence of the concept of human security and the demise of Communism on the European continent are hardly coincidental. With the diminished threat of conflict in Europe, and the increase in ideological conflict in the South that spread to Western countries, the idea that a state must protect and enhance human development across a wide spectrum has gained prominence in contemporary academics. With more and more countries considering ways their governments can meet human security needs, the concept itself remains ambiguous and ill-defined. In this context, Fred Schreier's 'The Division of Labour in the Defence and Security Sphere' is a welcome contribution to the overall discussion and a fitting way to begin this greater work on the role of the military and security forces in a changing world dynamic.

At an earlier time, in established democracies the defence and security sectors

were usually considered mutually exclusive in the mandates and goals. While the armed forces were oriented toward protection from external threats, the security forces – the police, counterintelligence and intelligence agencies – were inwardly focused. In our modern security environment, with a more comprehensive definition of security and the poignant threat of international terror, this distinction is becoming increasingly academic and more of a luxury that states cannot afford. The traditional maxim that the military provides defence, and civilian forces deals with security is no longer prevalent in practice. In fact, most countries and international organizations no longer make this distinction. Instead, as in the cases of the United Nations, NATO and the EU, the concept of *security sector reform* has now superseded the much narrower idea of civil-military (or politico-military) relations.

This more comprehensive view of security sector is now generally understood to comprise all functions and forces who have the responsibility for the protection of the state and its constituent communities. The security sector includes the core structures of the armed forces, all law enforcement and paramilitary forces, intelligence and security agencies, customs agencies, coast and border guards as well as those institutions that formulate, implement and oversee internal and external security policy.[1] The EU and the European Parliamentary Assembly subdivide the security sector into the four main areas of *defence*, *police*, *intelligence services*, and *border management*.[2] Although traditionally there was a clear distinction between defence and security, today in practice these institutions overlap in responsibility and activities. It is this mixing of responsibilities between security and defence that the contemporary security environment faces that prompts one to discuss how they divide their duties to best protect the security of their constituents.

Schreier provides us with the multiple reasons for a division of labour in a government or in a state, both theoretical and pragmatic. Principal among these reasons is the idea that democracy requires a balanced distribution of power among multiple and different state institutions, especially in the defence and security spheres, which share the Weberian idea of the state's monopoly of controlling and applying violence. As witnessed through the actions of the defence and security organs in multiple authoritarian regimes, no single institution should be either so powerful or influential that it could endanger the proper functioning of democratic processes. There are two prerequisites for improving the balance of power between security and defence: a *clear division of responsibility* in missions and the provision of services, and *clearly defined obligations of accountability*. These eliminate overlapping missions and redundancies in budgeting, resources, and activities. Moreover, unambiguous attribution of responsibility and accountability creates the basis for a more effective and more efficient execution of the mission. At the same time, it enhances both the transparency

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[1] The definition of the security sector is discussed in Dylan Hendrickson and Andrzej Karkoszka, "The Challenges of Security Sector Reform", in *SIPRI Yearbook 2002: Armaments, Disarmament and International Security* (Oxford: Oxford University Press, 2002), p. 179.

[2] See for example: Council of Europe, Parliamentary Assembly, *Democratic Oversight of the Security Sector in Member States*, Report Political Affairs Committee, Doc. 10567, 2 June 2005, at: http://assembly.coe.int/Documents/WorkingDocs/doc05/EDOC10567.htm

of the institution and its activities, and works toward more professional services, which is much of the answer to the elimination of lingering shortcomings. There are many avenues a state may choose from to formulate the division of labour in the defence and security apparatuses to include: 1) *within the structures of the organization of a state;* 2) *in a state;* 3) *in changing situations;* and 4) *for border security in the EU.*

  Division of labour within state structures. Western governments have developed complex institutions to separate in practice the defence and security functions, usually through two cabinet-rank ministries: the defence forces to the Ministry of Defence, and the security forces to the Ministry of the Interior or, in some countries, to the Ministry of Security or the Ministry of Justice. The respective ministers and their executive ministries are the principal civilian controllers of the defence and security forces, ensuring the submission of the respective forces to the civilian authorities as codified in law. But at the same time theses ministries are obliged to protect the professional autonomy of the forces, which in a strange bureaucratic manifestation of centrifugal forces in effect distances the services from the ministries. Among their portfolio, the ministers propose budgets and laws to the legislatures and ensure that public funds are spent in accordance with their intent. The ministers are the only ones authorized to direct, administer and manage these forces, but only in accordance with the constitution, law and strategic documents. They should not independently change the purpose or the intentions of the armed and security forces, and they have to take all decisions on the use of these forces in constitutionally and legally defined procedures.

  The division of labour in the state defence and security spheres. In order for defence and security forces to meet new security requirements, a fundamental reform of national structures, patterns of investment, systems of government, and also civil-military relations is required. In practice, the demands and functions these institutions now face have changed dramatically over this past decade, but their internal structures have not yet evolved apace. In today's security environment, the forces responsible for defence and security have increasingly wider varieties of roles and tasks, which may lead to a psychological dissonance of their respective roles. Domestically, it is their job to preserve law and order; protect the security of the state, persons and property; safeguard democratic institutions and procedures; and ensure the peaceful coexistence of different sections of the community. Internationally, these forces must be comprehensively coordinated through bilateral or multilateral framework agreements as they may be involved in concerted action or joint/combined operations under collective defence arrangements or also in international peacekeeping and stabilization missions intended to prevent or settle conflicts, or assist with post-conflict reconstruction.

  At the *government* level, the contemporary threat environment requires foremost the building of a robust crisis management capability, which may include types of a crisis – diplomatic, political, military, humanitarian, economic, and social – to ensure that all aspects are addressed simultaneously, and followed up by integrated action planning. At the *armed forces* level, Schreier contends that new military organizations and structures are required, which will likely be smaller in number and size, but more capable and flexible, and adopt a significantly broader range of

competencies. As these armed forces become more flexible, versatile, and capable of being deployed and sustained abroad, their cost will increase, and the numeric size of an affordable force will drop. At the *police* level, though there are country-by-country differences, national security is no longer the main purpose of regular policing, but instead it is evolving toward *special police* units, which deal with trans-national terrorist groups and organized crime in a centralized fashion at the national level. At the level of *intelligence and security agencies*, the organic flexibilities of terrorist and criminal organizations to learn and adapt force even more capable security-intelligence forces. States can no longer merely keep pace with these groups: they must anticipate the criminals' actions to keep ahead. Moreover, the change in today's threat nature requires closer cooperation between intelligence services, security services and policing organizations, despite past animosities, competitions and mutual mistrusts.

The division of labour in the defence and security sphere in changing situations. Among the expectations of the electorate toward its government is the ability for these governments to plan, prepare and manage critical events. Some of these policies will involve the use of defence and security assets, and it is necessary to consider their use when unexpected contingencies arise. Such contingencies can emerge in many forms: natural or man-made disasters; civil disobedience and civil disorder; hazards of terrorism; insurgency and war. Most of these events have in common a change of the situation that may necessitate the deployment and engagement of defence and security forces. Schreier provides as examples of the division of labour in the defence and security spheres in changing situations in three broad instances 1) *natural disasters;* 2) *civil disorder;* and 3) the *'state of emergency'*. Each branch of the defence and security establishments provides unique capabilities, though care must be made that the correct mix of forces does not waste limited resources or propagate emergencies. Critical events can be anticipated and planned for; the state that does not plan for them risks failing their populace.

The division of labour in the security and defence spheres for border management in the EU. Because, by definition, trans-national threats concern all EU member states, these threats require coordinated and harmonized policies. These policies have produced the concept of *integrated border management* to emphasize the need for all actors concerned with border security to coordinate national efforts. In this environment, customs and immigration agencies, as well as various inspection authorities need to work closely with border police organizations. Since border security is no longer simply a national concern, international cooperation is called for. Border management systems therefore must include cooperation on the *national, interagency* as well as on the *international, regional, multilateral* and *bilateral* levels. This is why arrangements for managing the frontiers have been a major preoccupation in Europe ever since the EU abolished the internal borders of the Schengen signatory states and had to find measures necessary for achieving the area of *freedom, security*, and *justice* envisioned by the Treaty of Amsterdam.

In Schreier's analysis, an enlarged European Union must learn to work within its limits. Creating more secure borders is not about fortress mentalities or physical new walls. Instead, border security is about making clear common rules and practices for legally crossing the EU external borders. Thus, transparency, public awareness,

quality and speed of service, and protecting the confidentiality of travellers should be high priorities. If it is to enhance border controls through a common approach, the enlarged Union has to be more accessible and attentive to citizens' needs and concerns.

Schreier's rather extensive work uniquely provides concrete examples of the concept of division of organizational responsibilities as practiced throughout developed and developing states. As he puts it, 'There are different approaches possible for the division of labour, as the differences in the organization of the fight against terrorism in the US and in Europe show … They must thus adapt their institutions and [policies] developed for earlier terror threats to these new ones in a much more comprehensive way'. It seems as if the European states have at the moment institutions best able to adapt to the contemporary and emerging threats, though he contends that, 'The institutional, organizational, and doctrinal approaches that the US and European countries have developed can form the basis for developing norms and procedures that may work well as the terrorist threat evolves'. For the statesmen interested in policy and institutional options, 'The Division of Labour in the Defence and Security Sphere' is worth more deep reading and analysis.

Democracy and the Armed Forces

Despite an apparent decline in interest in the role of the military and other security organs in established democratic states, the dynamism in the security realm in the past five years has demonstrated that this area is ignored at risk of peril to those very states. As Hans Born establishes in his chapter, 'Democratic Control of Defence Activities', changes in Europe are forcing democratic governments there to be ever more nimble and creative in overseeing their entire security apparatus. In short, the challenge of maintaining effective control over the security organs of the state must never be far from sight for democratically-minded citizens and government officials.

Born quite rightly forwards that, 'In Europe, the issue of democratic and parliamentary control of defence activities is undergoing a renaissance', though strictly speaking the return to studying the civil-military dynamic may be due less to an enlightenment but due rather to a renewed realization that the armed forces left to themselves may not best serve the democratic state. In Born's contention, the reasons for this contemporary emphasis on the armed forces are manifold. First, the abolition of conscription in countries throughout the European continent has sparked a (long-overdue) critical debate on the ability of democratic government to control all-volunteer armed forces, with the overriding fear that professional armed forces are more difficult to control than an army of conscripts. Second, over the last decade the armed forces have been 'downsized' despite a non-linear rise in the aggregate numbers of tasks expected of the armed forces. Though hardly limited to European states, but to the armed forces of all developed states, these budgetary and personnel demands strain political-military relations. And third, increasing international military activity forces the democratic and parliamentary control of international military cooperation and institutions to become increasingly relevant. This trend is particularly true for the smaller member states of the EU and NATO. It is within this security environment that the transitioning states find themselves, looking for lessons on how best to move their

governments to become more democratically responsive. Born's overview of international principles of democratic control of the armed forces and his mechanisms and principles of democratic control at the national level go far in making those lessons accessible.

The Rising Prominence of International Standards

Most major governmental and non-governmental international organizations have all accepted and promoted the concept that democratic control over the armed forces and other security services is among the most important criterion for consideration as a democratic state; oftentimes there is little substance that a developing state may employ in the real-life demands to institutionalize democratic practices. Citing the *2002 United Nations Human Development Report*, certain foundational principles must be enacted for a state to be considered democratic:

- Ultimate authority on key security matters must rest with elected representatives;
- Security organisations should operate in accordance with international and constitutional law and respect for human rights;
- Information about security planning and resources must be widely available, both within government and to the public. Security must be managed using a comprehensive, disciplined approach. This means that security forces should be subject to the same principles of public sector management as other parts of government, with adjustments for confidentiality appropriate to national security;
- Civil-military relations must be based on a well-articulated hierarchy of authority between civil authorities and defence forces, on the mutual rights and obligations of civil authorities and defence forces, and on a relationship with civil society based on transparency and respect for human rights;
- Civil authorities need to have the capacity to exercise political control over the operations and financing of security forces;
- Civil society must have the means and capacity to monitor security forces and provide constructive input into the political debate on security policy;
- Security personnel must be trained to discharge their duty professionally and should reflect the diversity of their societies – including women and minorities; and,
- Policy-makers must place a high priority on fostering regional and local peace.

The Legislative Dimension

In a common thread that runs throughout this book, there are no universal prescriptions for what might be a single best model for democratic states to adopt, especially those countries that are emerging from some form of authoritarianism. With that clearly in

mind, Born, borrowing from various works on civil-military relations in democracies, forwards that no state can truly be considered democratic without real and effective legislative control over the armed forces. Broadly, the legislatures must have: legal authority to hold executive agencies accountable, the capability to exercise oversight, and parliamentarians must have a critical attitude toward government accountably.

Distilling the structure that will help transitioning states to frame the basic structure of democratic control over their armed forces, legislatures must have the following prerogatives *vis-à-vis* the executive and the armed forces:

1. <u>General powers,</u> to include powers which, in principle, are applicable to all fields of government. In most democratic countries these powers include the right to initiate or to amend laws, to raise questions, to summon members of the executive and their staff to testify, to summon members of civil society, access to classified information, the right to carry out parliamentary inquiries and the right to hold hearings, both public and private.

2. <u>Budget control</u>, or the right to allocate and amend defence budgets; the right to approve or disapprove supplementary defence budget proposals (during the fiscal year) and having access to all relevant defence budget documents.

3. <u>Peace support operations</u>. Contentious in many countries but at the very heart of the political-military relationship is the ability of the legislative to control deployments of its national armed forces. These legislative privileges include the right to dis/approve to send troops abroad, the mandate, the budget, risks of military personnel involved, the rules of engagement, command and control mechanisms, the duration of the mission and the right to visit troops on missions abroad.

4. <u>Defence procurement</u> relates to the involvement of the legislature in the government's decision concerning contracts, specifying needs for new equipment, selection of suppliers and manufacturers and assessing offers for compensation and off-set.

5. <u>Security Policy and planning documents</u> includes the right to amend or to dis/approve the security policy concept, the defence concept, the crisis management concept, the force structure and the ultimate planning and military strategy.

6. <u>Military personnel</u>. In the ultimate demonstration of civilian control over the professionalized military is the power of the legislature to manage all aspects of the military personnel system. In democratic states, the legislature can dis/approve the defence human resources management plan, the maximum number of personnel employed by the MoD and military, the approval of high-ranking military commanders and the right to be consulted by the Defence minister about high ranking appointments.

Recognizing and promoting international standards for civilian control over the armed forces are necessary conditions for increasing the number of democratically responsive armed forces globally. These alone, though, are hardly sufficient for a real adoption and instantiation of democratic governance and control. In the end, all elite within the

civilian and security spheres must understand and accept that real civilian control benefits all parties considered. Only through partnership can there be a mutually-beneficial outcome.

Civil-Military Relations

The genesis of the concept of civil-military relations is most associated with Samuel Huntington's *The Soldier and the State*, and the idea that the military's unique mission and culture could be in direct opposition to the precepts of democratic governance gained prominence with academics with the on- and off-again military regimes that dominated Latin American politics. The 1980's and 1990's saw a decline in interest in civil-military relations, particularly as the seemingly more pressing issues of developing liberal political institutions and open-market economic systems gained prominence with the states that accompanied the global "third wave" of democracy. The past few years have witnessed a "re-recognition" of the criticality of appropriate civil-military relations. Wim Van Eekelen's "Civil-Military Relations and the Formulation of Security Policy" is emblematic of this renewed interest in the study of the military's role in a democratic government and an open and critical society.

      The complex relationship between the state, the government, the military (and the state's security organizations in general) and the society make it difficult to develop a formula to apply universally. Rather, there exist certain principles, or norms, that typify the practices of established western democracies in their control over the security establishment:

- A clear division of authority between the Head of State, the Head of Government and the security-sector ministers, enshrined in a written constitution or public law, and unambiguously ascribing roles and responsibilities concerning control of the military;
- Executive direction of the general staff and commanders through a defence ministry in peacetime, which enjoys (under civilian oversight) clear responsibilities for key choices regarding force size, structure, materiel and deployment of the armed forces;
- Legislative oversight of the defence organisation, with a forceful enough mandate and level of expertise to ensure legitimacy and popular support, with control over the security apparatus exercised primarily through 'the power of the purse', but with real scrutiny of executive proposals, engagement, through committees, with the main opposition parties, and finally with support from knowledgeable parliamentary staff and 'outside' expertise;
- Transparency and openness, which involve analysts, academics, interest groups, an engaged media as well as other civil society bodies to complement elected representatives' supervision; and,
- The governed generally perceive that in fact there is civilian and democratic 'control' of the armed forces, with military staff clearly answerable to civilian

office-holders who are themselves clearly accountable to the legislature society-at-large.

Accepting these standards for civilian control has clear implications for the society developing democratically responsive state institutions as well as for those consolidating democracy. Though no single democratic state has a model that is immediately transferable to a nascent democracy, these norms offer the developing democracy a range, from concrete institutional choices to more amorphous goals to develop over time. For instance, the first three are reasonably easy to codify during the institutional development stage, creating clearly defined responsibilities and modes of operation. A civilian executive controlling an executive agency (the military) with legislative oversight is a concept easily understood and recognized as critical. This is especially the case in states transitioning from authoritarianism, where control of the security sector is problematised by an unaccountable regime. Developing a supra-executive capability to oversee the military is a much more difficult course in practice.

In terms of legislative oversight, oftentimes there are no recognized experts outside of the military and security structures, forcing the legislative committees paradoxically to rely on the services they notionally oversee to develop policy and provide guidance. Moreover, forcing society to accept that it has a primary role in ensuring that its national security apparatus remains responsive tends to be a norm much more difficult to instantiate. Couple this lack of understanding with a lack of incentive for governments to develop civil bodies that will inevitably be critical of its efforts, and one begins to recognize the role that outside governmental and non-governmental bodies have in creating a civic sense of engagement in the activities of the state.

Van Eekelen's piece also demonstrates the changing nature of civil-military relations, particularly for developed states that have been the targets of terrorism spawned from an ideology that runs counter to much of the West's ideals notions of personal freedoms and societal openness (especially those states that have assisted the United States, i.e., Spain and the United Kingdom). Encompassing domestic (or internal) security organs, this changing idea of civil-military relations again reverberates throughout the democratic government. He recognizes that reform of the "security sector", a phrase that today is recognized as encompassing police, intelligence agencies, and the military, can be inspired and guided only through civilian political leadership.[3] "Of necessity, [security sector reform] has to be a gradual process because it affects power relationships, particularly when the security sector has a role in controlling civil society", Van Eekelen argues. "It will relinquish that role only when it is convinced that the stability of the state is ensured and change will be the outcome of an orderly process". This lesson should in turn guide the political reformer interested in reforming not only his government, but society as well.

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[3] Dr Theodor H. Winkler, 'Managing Change. The Reform and Democratic Control of the Security Sector and International Order', *DCAF Occasional Paper* No. 1, October 2002, p. 10. Available at: http://www.dcaf.ch/_docs/op01_managing-change.pdf

Legislative Oversight and the Security Sector

That democracy is more than just a set of institutions to carry out the will (and sometimes the whims) of the electorate is a common theme throughout much of the contemporary literature on the subject. Instead, in most modern democracies, a complex mix of persons, structures and cultures works to ensure that policies and practices remain consistent with the values most highly expressed by the polity and are enacted. In his second chapter in this volume, Wim Van Eekelen expresses the complex nature of modern democracy and how it relates to the actions of the security services.

Underscoring that no developed democracy has a ready-made solution for the questions of control of the security sector is the juxtaposition of the US and the United Kingdom's method of legislative control. Breaking it down to the systems' most essential elements, the US's system emphasizes the primacy of the legislature to control not only security sector budgets, but detailed policies as well. The nature of the US Constitution, political culture and the deep pool of experts on the security sector allow its legislature to control it "in excruciating detail" and to hold the Department of Defence firmly accountable. The UK's system differs from the US's in that its legislature, the Parliament, has little ability to control the defence and security budget. Rather, the UK system pushes the Parliament toward more a public accountability role, through its various public hearings and reports. Van Eekelen's privileging these two systems is certainly intentional: by varying degrees, the legislative control and accountability mechanisms over the security services fall somewhere along the continuum between the UK and the US systems.

Following the broad distinction of direct (US) and indirect (UK) influence, all parliamentary oversight activity can be grouped into three broad areas: accountability, oversight and transparency.

- **Accountability**

At the very essence of democracy, where the elected representatives are to hold the government (i.e., the executive) departments under control, is the ability to exert real influence. Common among all developed democratic systems is a real check on security institutions through advanced accounting and budgeting systems. Through annual debates over defence expenditures, all legislatures, in principle, hold their government accountable, whether the final budget results from a long process of examination or merely a formal endorsement. Moreover, governmental accountability is also achieved mainly through hearings - sometimes, but often not, public - or through issue-specific special committees.

- **Oversight**

One of the principal gains from democratic control mechanisms is the ability to maximize the use of limited resources and the capabilities of defence forces. As Van Eekelen rightly asserts, "the crucial issue is the degree to which oversight translates

into real influence over the decisions of the executive". The spectrum of this influence is again broad but keeps consistent a major thread: maintaining a real input into defence decisions. In several states, parliamentary authorisation is required to purchase major weapon systems, which de facto equates to legislative participation. Additionally, certain Alliance parliaments have the constitutional requirement to be informed on the deployment of forces abroad, while a few have the right to participate through formal authorisation. Perhaps most important, in all Alliance member-states, legislative support remains a precondition for involvement in foreign contingency operations.

The driving concern with legislative oversight centres on the tension between excessive legislative involvement and executive privilege. Though there remains considerable day-to-day debate in practice and some academic divergence, most agree that the defence establishment should keep the legislature fully informed through regular consultation; and all areas of defence should be open to legislative oversight and scrutiny, while the executive must maintain the flexibility to exercise power responsibly but must be mindful that the legislature continues to scrutinize.

- **Transparency**

The concept of transparency ensures that government policies and practices are not made within a vacuum. Instead, to the extent possible needed to maintain national security, a primary function of the legislature as it concerns defence issues is the mandate to debate and report on defence activities and expenditures. In addition to building consensus between the government and its citizens on defence issues, transparency also ensures that the optimum decision is made within a given set of circumstances and constraints. Indeed, a lack of transparency in the defence and security realms may serve to create more problems for the government and legislature, particularly where the participation from civil sector remains vibrant and engaged.

The changed security environment of the past decade has forced legislatures to become much more nimble and flexible in how they approach defence and security matters. Among these new security missions are: conflict prevention, democratisation, and human rights protection and development. More specifically, most new legislatures face the short-term objectives of improved management of security expenditure, negotiating military withdrawal from formal participation in politics, dissociating the defence structure from an internal security role and demobilising and reintegrating excess personnel. Under these changed security circumstances and missions, legislators should follow a comprehensive and consistent approach, following clear and established procedures for defence committee proceedings and plenary debates.

First, their government should present, follow and update its security concept and security policy. Second, national interest for participation in international peace support operations should be determined, then concrete contributions defined in terms of units and skills and readiness for deployment outside the country. Third, personnel and equipment levels should be trained and equipped to match these national goals, including logistic support and cooperative arrangements. The preferred option is the formation of 'force packages', forces trained and ready for deployment as soon as a

crisis erupts and the political decision to join the operation is taken. Fourth, in NATO and the EU more attention should be paid to the acquisition plans of allies and partners. Fifth, legislators must ensure that governments apply the democratic processes of 'reveal, explain and justify' to material aspects. On the budgetary side, legislators must be convinced that there will be sufficient funding for the plans submitted to them, not only in the current year, but also throughout the entire acquisition phase. Just as important, legislators need to pay more attention to the life cycle costs of the new military systems, including maintenance, updates and operators, and necessary support personnel.

The tension between the legislature and the defence structure clearly benefits all parties involved, foremost among them the polity that must inevitably pay for state decisions. Whether through constitutional design or development over time consistent with a national political culture, legislatures must maintain vibrant and real capabilities to check the ambitions of the executive. Their not doing so may at one extreme waste limited national resources, and on the other hand may impair and threaten democracy itself.

- **Assessing National Security Requirements**

Relatively speaking, the great majority of interest in transitioning states is on the physical properties of the armed forces and the security services and their civilian control, while the less dramatic – but equally pressing – day-to-day properties receive less attention. In his quite interesting chapter, "Threat and Security", Jan Arveds Trapans concentrates on one of these less compelling aspects of national security: the cycle of identifying threats, assessing risks, and developing strategies to address those threats.

Reflecting new understandings and responses to unconventional threats, one common string throughout this book is the emphasis on the changing notion of security, not only against contemporary threats but on how states have adapted their existing institutions to meet those threats. As Trapans notes, "Because each country develops and documents its security strategy according to long-established political customs, there is no single Western template, no blueprint". Despite this lack of a template, there are consistent elements that form a conceptual core for each country: its strategic environment, the relationship to international organisations, its foreign policy, and its economic capabilities. Though Trapans discusses the wide range of threats that a state faces – from the more obvious threats of terrorism and criminal networks – to environmental threats and proximity to "pseudo-states", the remainder of this section discusses the procedural aspects of threat identification and planning, though the environment must constantly be kept in mind.

- **Information and intelligence**

The initial stage of the risk assessment process involves information and intelligence. Though 'information' and 'intelligence' have semantic commonalties, in practice they

have distinct applications for defence and military planning. Information is acquired by a number of organizations, from many sources. In the state, the ultimate information collectors are the state's indigenous intelligence agencies. The information these agencies acquire is assessed and analysed, whereupon it becomes 'intelligence'. Broadly speaking, intelligence is a corpus of evaluated material, estimated to increase its credibility and usefulness to state officials, particularly as a fundamental basis for determining policy. As concerns security planning, a state's intelligence collection and analysis function is the means for locating threats and assessing risks.

Trapans notes that intelligence can be grouped in a multitude of ways. There is intelligence that relates to *internal security* with the ultimate goal of protection of the state and society; there is *foreign intelligence*, which deals with external risks, dangers, and threats; and *counterintelligence*, which aims to prevent foreign intelligence operations directed at the state and, much more recently, is directed against emergent terrorist threats. Most Western states have a multitude of agencies (the US, for instance, has 15 security and intelligence agencies) as well as related capabilities that in sum make up the notion of the 'intelligence community'. The challenges for most of these services are huge and have real consequences for the country, including an inability to cull the most pertinent data from the literal volumes of information that are collected and processed each day and ensuring wide enough distribution of its products while concurrently maintaining state secrecy. Threat identification, though, is merely a first and necessary step in the process. Once a threat has been made clear, the state apparatus must then engage that information and develop concrete actions.

- **The Process of Threat Analysis**

When information *cum* intelligence notes a potential threat, in states with the more established structures there is some formalized method that begins. These procedures can be presented and explained schematically, like a formula with the elements of *threat*, *vulnerability*, *consequence*, and *risk*.

- *Vulnerability* is the probability that the threat, such as a military attack, will succeed.
- *Consequences* are measured as estimates of damage to the nation's security, economy, or population.
- A *threat* is the likelihood that a security event will happen in a given time span, or, at a particular rate. A target is either vulnerable or not to a particular threat.
- *Risk* is assessed as a combination of threat, vulnerability, and consequences. Risk provides a conceptual measure, a guide for actions a government needs to take to minimize the existent risk.

In some respects it is a calculation, something that a government could accept to encounter or something that it could minimize by taking countermeasures, which might increase some other risk.

Trapans describes how these concepts are closely interrelated: threats can be 'concrete', which in turn are assessed in terms of probabilities; vulnerabilities also are 'probabilities'; consequences are estimated in human and material terms; and the result of all this is risk, described by practitioners as "the likelihood of an unfavourable outcome", given some threatening event, which usually is seen as a military event, though it need not be strictly conceived in military terms. Trapans notes the holistic nature of threat identification and planning, especially for the most senior state policymakers. His ultimate assessment is that "it all comes down to informed judgment. There never is a solitary risk; there are clusters of them". Modern states must contend with the spectrum of physical, social and economic threats, so much so that any complete risk assessment of the total combination of the risks must include:

- Effective information collection and an objective process of evaluation
- Expert Analysis
- Procedures to ensure policymakers receive adequate and usable threat analysis

The threat and planning processes are not, and cannot, be limited to only great powers. In fact, it can be argued that the smaller states need to be as conscientious in their assessment efforts as the larger states. To illustrate this, Trapans uses a comparative strategy for the range of states' planning mechanisms: from the economic and military superpower state (the US), to the powerful military state (Russia), and the less dominant powers (Slovakia and the Baltic states). Though each entity has a unique threat environment, the lesson that Trapans seeks to teach is that each state must systematically assess their capabilities and needs. With that assessment, certain risks are borne that may leave the state vulnerable, but as complete security is impossible for even the wealthiest and capable of countries, these risks must be figured in the final calculus.

Detailing the significant risks that states face (terrorism, and environmental and criminal threats, among others), Trapans concludes that through creative threat assessment, planning and involvement in extra-national organizations and programs, states may face these present and future perils.

How Democracies Plan for their Defence

In an interesting overview of the bureaucratic dynamics of developing states, Jan Trapans's "Democracy, Security and Defence Planning" elucidates the external forces that shape the development of defence policies. Because of its mandate for the defence of the state, the military assumes a culture and structure that in many respects are in direct opposition to the precepts of democracy. At the heart of the intersection of this distinct military culture and democratic principles is the defence ministry, that curious amalgam of organizations that attempts to reconcile competing interests and demands. As reflected throughout this book, the academic principles seem simple, but the reality is much more complicated and interesting.

Contrary to the general perception that the military cannot be trusted to develop and enact reforms that promote democratic responsibility - and conceivably its own loss of autonomy, Trapans demonstrates that in fact military leaders have been more forceful in promoting democracy than civilians. Though the explanation for this phenomenon is unclear, what is relatively certain is that military officers with vision, courage and technical expertise were able to reform their bloated and unresponsive militaries to bring them more in line with established norms for politico-military relations. The military has been so successful in establishing professional forces that in most cases it must now be responsible to the very mechanisms that it helped develop and foster. In short, the defence ministry, or department in the US's case, must work with and compete against multiple actors within and external to the bureaucratic environment.

- **The Ministry and the Legislature**

A ratified constitution and associated laws delineate the responsibilities of the defence ministry *vis-à-vis* the legislature. In principle at least, there is no difference between the responsibilities and obligations of the defence minister and those of other ministers. Reacting to the legislators' ability to summon executive members and staff, all cabinet members, as a rule, can be compelled to appear before legislative committees; they can be requested to be present at hearings, and they have to answer questions. In practice, however, the defence minister's engagement with the national legislature is much more subtle and complex. All legislatures have standing committees, with the defence affairs committee privileged among all others and therefore most desired by senior legislators. Among the most important lessons learned from transitioning states is that rarely does the government have the expertise to be able to effectively oversee the military sector, so much so that defence ministries oftentimes are staffed with the military officers that they are tasked to oversee and control. Moreover, the legislatures rarely have the capabilities to interpret and assess military and security needs so much so that the defence establishments again are called upon to control the very functions that are meant to control them. The centre of Trapans's observation is that the potential for undermining democracy exists until the defence ministries can develop expertise that can compete with the military's.

- **The Ministry and the Government**

In transition states, where the influence of the authoritarian regimes is (was) quite pronounced, the defence ministries have had to react within particularly interesting environments. Trapans notes with some exasperation that states that have the multiple goals of attaining membership in the EU and NATO simultaneously have not only had complete integration of actions among competing and cooperative national ministries. In fact, the record of some contemporary aspirants to these pre-eminent international organizations demonstrates preponderance for elite decision-making, with bloated bureaucracies incapable of working toward coordinated policies. The new,

democratized environment also forces a broader understanding of what security in fact means in a national context, and how government agencies can work toward common objectives. Within this context, defence ministries are now forced to interact (stopping short of working *with*) other security agencies, which in many cases they controlled during the authoritarian regimes. Though difficult to summarize all the nuances of the forced interactions between the defence ministries and other governmental security institutions, suffice to say that in most cases there still remain few codified processes that force and make routine inter-agency cooperation.

- **The Ministry and Society**

Surprisingly, in most transitioning states there were capabilities that could reliably measure and interpret societies' attitudes toward the armed services. Accepting that society can and should have tremendous influence on the security apparatus, in many cases, the societies tend to have a high degree of respect and trust for their militaries, despite the repressive role these forces may have played during the reign of authoritarianism. However, these general attitudes are mitigated by society's desire for smaller, more professional forces that are recruited and not forced through general conscription. The defence ministries in liberalizing states have generally not hesitated in using both traditional and new forms of media to ensure maximum public reach, but their performance still lags behind that of more developed states. Trapans contends that NATO probably disseminates more information on partnership states than the indigenous defence ministries to their own constituents. The sum of his observations lies in that practices within the defence ministries of transitioning states fails to meet democratic standards. This deficiency of not responding to societal needs and demands is in need of immediate and serious attention.

- **Meeting the Demands of the West**

The final and perhaps greatest external influence on defence ministries of transitioning states is the assistance programs of Western states and organizations, especially from the Alliance. Though most programs are well received, they can be replete with problems that hinder their effectiveness. Chief among these problems is that the outside experts may not know the target-country's defence issues and internal concerns, but only his system. Moreover, this expert may be stationed within the country for short periods of time, insufficient to understand the needs, personalities and dynamics. The defence ministry, at the forefront of efforts to be accepted into NATO and the EU, then must face the contradictory tasks of being forced to work with individuals, albeit well meaning, who may in fact hinder the very efforts to improve military capabilities and forces.

Studying the organizational forces that new defence ministries must contend with - other agencies, society and forces external to the state - illustrates the confusing and difficult real-world environment that new countries face. That this academic

understands this portends that newly transitioning states may not be forced to repeat the past mistakes of others.

- **The Rise of International Standards of Conduct and the OSCE**

With the end of the Cold War, Europeans have sought to mitigate violence on their continent through non-military means, most acutely under the auspice of the Organization for Security and Cooperation in Europe, or OSCE. I recall my first practical experience with the OSCE when, as a younger officer among the initial NATO contingent to be deployed to Bosnia-Herzegovina after the peace agreement there, I noticed the observers throughout the US sector. With the exception of the violence in Southeast Europe, the evolution of the military threat has gone from concern over a cross-continent conflict between the East and West to one where international standards for state behaviour hold promise for long-term stability. It is in this sense that the OSCE developed its *Code of Conduct on Politico-Military Aspects of Security* in 1994, where it emphasizes the significance of national actions for international aims, especially confidence-building measures with regard to civil-military relations and the employment of the armed forces.

Victor-Yves Ghébali's "The OSCE Code of Conduct on Politico-Military Aspects of Security (1994): A Paragraph-by-Paragraph Commentary on Sections VII and VIII (Democratic Control and Use of Armed Forces)" analyses this important milestone in efforts to supplant international norms with the more realist conception that power is the only legitimate state tool to ensure state security. As noted in the introductory paragraphs to this extensive chapter, since the end of the Cold War, the democratic control and use of armed forces has become one of the preconditions that emerging democracies have to meet in order to accede to European and Euro-Atlantic organizations. Indeed, European and Euro-Atlantic organizations other than the OSCE are using the OSCE Code of Conduct as a reference tool when it comes to defining the principle of democratic control and use of armed forces.

As Ghébali notes, the *Code of Conduct* stands out as the most important normative document adopted by the OSCE since the Helsinki *Final Act* because it represents an instrument that has no real equivalent in any other international organisation, including the *United Nations Code of Conduct for Law Enforcement Officials*. Moreover, the *Code of Conduct* intruded into areas that were previously considered sacred in international norms: the development and control over a state's armed forces. After a short preamble, the text of the *Code of Conduct* consists of 42 provisions structured into 10 untitled sections that group three sets of provisions respectively related to inter-state norms (Sections I-VI, paragraphs 1-19), intra-state norms (Sections VII-VIII, paragraphs 20-37) and implementation arrangements and final clauses (Sections IX-X, paragraphs 38-42). The sections Ghébali comments on include:

- Section VII, which discusses the democratic aspects of control of armed forces, that now includes more generally the idea of the "security sector" to

       denote the range of state apparatuses that work toward national security.
- Section VIII, which frames the idea of democratic use of the armed forces.

To synopsise how Sections VII and VIII discuss the basic questions of *who* should control *what* armed forces, *how* they should be able to control forces and the normative rationale *why* civilian democratic control is essential, Ghébali employs the following table, drawing specifically from the sections' contents:

Who ?	Constitutionally established authorities vested with democratic legitimacy (§ 21). Specific role of the legislative branch (§ 22).
What ?	Military forces, paramilitary forces, internal security forces, intelligence services and the police (§ 20). First three categories only (§§ 21, 27, 32). Paramilitary forces (§ 26). Irregular forces (§ 25). "Armed forces" (§§ 22, 23, 28, 30, 31, 34, 35, 36, 37).
How ?	Primacy of constitutional civilian power over military power (§§ 21, 22, 23, 24, 25, 26). Subjection of armed forces to international humanitarian law (§§ 29, 30, 31, 34, 35). Respect of the human rights of servicemen (§§ 23, 27, 28, 32, 33). Commensurability of the domestic use of force with the needs for enforcement (§ 36) and prohibition of use of force aimed at restricting the peaceful and lawful exercise of human rights or at depriving people of their individual or collective identity (§ 37).
Why?	"An indispensable element of stability and security" as well as "an important expression of democracy" (§ 20).

As is common in almost all works on the subject of civilian control over the security sector, Sections VII and VIII of the *Code of Conduct* do not give a detailed model. Instead, these sections spell out general guidelines, though Ghébali notes a number of shortcomings in the *Code of Conduct's* regime:

1)   Sections VII and VIII provide only for executive and legislative control, omitting the judicial branch.
2)   The Code of Conduct does not offer any of the rights and duties that armed forces personnel should enjoy and abide by.
3)   The Code does not provide guidance should the armed forces usurp the democratically-elected government within any particular state.

4)   There is no conceptual linkage between the Code of Conduct and the Vienna Document on CSBM.

5)   The Code's single obvious provision discussing paramilitary forces is weak, not even committing the OSCE states not to use paramilitaries to circumvent limitations related to their armed forces under arms control agreements.

6)   The Code's provisions dealing with international humanitarian law are significantly weaker than those of the 1949 Geneva Conventions.

7)   The Code does not contain provisions to regulate the use of armed forces during a state of public emergency.

8)   The Code does not force OSCE participants to provide information on the domestic use of force.

9)   As already mentioned above, while the Code of Conduct formally refers to five categories of armed forces (military forces, paramilitary forces, internal security forces, intelligence services and the police), it does not contain any operative provision whatsoever on intelligence services or the police, as well as border control forces.

Despite these not insignificant limitations, the Code of Conduct does represent a significant event in making concrete broad international standards of conduct for the control and use of domestic armed forces. Ghébali's "Commentary" serves as a handbook for these democratic norms, for both states within the OSCE that wish to continue democratic control of the security sector and to those aspirants who continue to struggle with instantiating democracy's ideals.

The Transformation of Military Personnel Policies – the Case of Hungary

As repeated throughout this book, events throughout the 1990s forced European states to alter significantly their actions and policies throughout the security sector. The democratisation of these states forced more openness and accountability from their respective governments in general, and the changed security environment forced more responsive and capable military and security forces. Ferenc Molnár's contribution, "Principles and Practices in Personnel Policies: The case of the Hungarian Defence Forces", outlines the impact from internal and external forces in shaping and changing security postures.

Internally, Molnár relates that, in the Hungarian experience, the country's democratisation forced severe changes to the state and society, including the application of the rule of law concerning human resources, educating military personnel on democratic norms, and changing military attitudes toward the society. Externally, the new and dynamic security environment after the demise of Soviet-era apparatuses initiated a construction of new national defence policies, strategies, and structures. For the internal concerns subjected to democratization, social and political consensus brought a relatively quick success. Adapting to the new external environment, however, was significantly more difficult, as Hungary was forced to respond to numerous other challenges to include economic difficulties and public

security. Nevertheless, the process of democratic consolidation and foreign policy forced the formulation of suitable personnel policies, strategies, and practices in the Hungarian armed forces. Adapting to democratic procedures at the very beginning of the transition, downsizing bloated military forces in response to changes in the security environment, and serious budget constraints, as well as the necessity of the capabilities' improvement forced Hungary to work out more exact personnel policies and related working mechanisms. This chapter examines those personnel-related issues.

- **Parliament's Role in Promoting Values and Laws**

Normatively, a democratically-elected legislature has the principal role in defining the foundations of the national security infrastructure, which include personnel-related questions. Stemming from constitutionally-derived authorities, the legislative authorities have the right (and obligation) to frame the defence forces' working mechanisms, to approve the highest-level promotions, and to ensure the instantiation of basic democratic values into the armed forces. In the Hungarian case, contemporary legislative prerogative include decisions on the size, composition (ratio of generals, officers, contracted soldiers, conscripts, and civilians), and the senior command structure, as well as outlining and approving the main goals of the medium- and long-term development of the armed forces, including personnel related questions. For Hungary, these legislative actions have had the net effect of emphasizing that its servicemen are "citizens in uniform" that take an integral part in this democratic society. Moreover, the legislative acts in the past decade have defined the necessary specifications and restrictions, which are important for their accomplishment, most acutely in the Act on Legal Status, which serves to guarantee the rule of law, the internal order, and the stability of the military organization.

- **Personnel Policy and Management**

The new security environment (with regional and sub-regional conflicts, and terrorism as the principal concerns), membership in NATO, and a new socio-cultural reality required a smaller and more professional armed forces. Additionally, the constraints of the market-based economy called for cost effective solutions for defending the nation and national interests. Taking these into account, the military had to change its view of the requirements of personnel policy. Contrasting significantly with the communist-era system, economic and security considerations forced Hungary to shape personnel policies that would attract and retain the most qualified members of the armed forces. With Hungary's advancement of a system of volunteer service, the Hungarian military became a major actor in the labour market. As one of the country's largest employers, the Hungarian armed forces recruit from the available labour pool, educate and train, and transition most of their service members back into civilian society, thus once again onto the labour market. Accomplishing this challenging duty, the creation of a personnel strategy and a human management system became a cogent necessity at the end of the 1990's. Employing a three-tiered approach to developing the personnel

resources that includes *human resource development*, *human resource planning system*, and *human resource management*, the Hungarian experience has improved significantly, though continued changes in a multi-faceted environment challenge Hungarian efforts to recruit and retain personnel the contemporary world demands.

- **Protection of Rights**

Just like in many other European countries, Hungary allows members of its military to form representative associations for defence forces' employees – including military personnel. Organisations to safeguard the rights of soldiers and civilian employees have existed since 1991, resulting from enabling laws and a need posed by the downsizing of the military. Since 1995, soldiers' interests have been represented by the "Honvéd" Union. This union had a significant role in formulating the Act on the Legal Status of Soldiers, which defines the soldiers' right to create representative organisations or to be a member in such organisations. The Union aims to guarantee soldiers' basic rights, but the bottom line of its activity is that soldiers are "citizens in uniform". In their interpretation this means that civilians and soldiers have fundamentally the same rights; however, soldiers' civil rights could be restricted at least while carrying out military duties. Citizens in uniform accept military regulations, discipline and obedience, and their activity in their union is not against commanders or superiors. Nevertheless, the Union opposes the over-restriction of soldiers' rights and, additionally, the Union is convinced that soldiers have a right to be smoothly reconverted into civil society.

Overall, members of the Hungarian armed forces rely on a myriad of tools for protecting their civil rights and liberties. Domestic laws ranging from the Constitution to the Act on the Legal Status of Soldiers, and military regulations fit to international agreements and recommendations in guaranteeing rights and freedoms. Soldiers and commanders are educated on these rights. Although these mechanisms and more generally the "vertical" democratic control over the defence establishment ensure the rule of law in this respect, representative organisations are allowed to be organised and act for improving the protection of soldiers' rights and interests.

- **NATO's Impact on Education and Training**

Hungary's membership in the Alliance did little to alter initially the overall capabilities of the armed forces; rather, membership provided concrete standards and procedures from which Hungary (and all subsequent new members) could develop national-specific plans and priorities. In addition to the structural and material changes that NATO membership forced, despite participation in numerous education programs, in the earliest stages NATO-related education did not improve significantly the armed forces' capabilities. Consequently, the Hungarian government made decisions to establish a language training centre; set up a committee to apply NATO doctrines to training syllabi; appoint senior instructors responsible for applying NATO standards in certain subjects; and, ensure that military schools report on activities and level of

NATO integration every third month. As a result of these actions, military education in Hungary has evolved according to NATO standards since 2001. Marking the important distinction between education and training, the training system in Hungary is currently undergoing major changes in response to Hungary's establishment of an all-volunteer force and the new tasks stemming from an altered domestic security environment. The soldiers now have much more training during their service period than before (for example, duties such as cleaning and guard patrol are not required by volunteer soldiers) and training is to a greater extent focusing on NATO-led and other international operations, primarily peace support operations. In the new system preparation for peace support operations (PSO) starts as early as the basic training of every soldier since each of them has to be ready to serve in such missions at any time.

Responding to internal changes fostered by democratization as well as external events, the parliament and other civilian authorities control the personnel policy and management of the armed forces, with laws, established democratic structures, and transparent procedures guaranteeing it. The human strategy of the military is based on the national security and military strategies. In Hungary, the transforming personnel management system definitely conforms to democratic, and increasingly to professional, requirements. The education and training of Hungary's military personnel increasingly adopts NATO requirements and enhances the capability of the forces according to the commitments Hungary made in Prague. Related structures and programs established by the Ministry of Defence and the General Staff aim to achieve full NATO compatibility of the armed forces and effective contributions to peace support operations. This includes an integrated education and training system in accordance with NATO doctrines, standards, and international laws and agreements.

- **Financial Planning and Defence**

Because of the significant percentage defence-related expenditures encompass in most national economies, few other governmental matters receive the same level of scrutiny and oversight, both within state structures and from the greater civil society. Usually, national defence employs about 2% of the active population, accounts for more than 1% of the Gross Domestic Product (GDP), and over 4% of total government expenditures. The end of the Cold War led to a shift in the balance between the state, the market and civil society, altering the environment in which governmental agencies, defence ministry included, operate. The domestic public sphere and international actors now demand higher ethical standards, transparency and accountability in the defence sector, and view the demand for good governance of the defence forces as part of the sustainable development process. Hari Bucur-Marcu's "Financial Planning and Resource Allocation Procedures in the Defence Area", details this changed environment, where defence now must contend with greater fiscal constraints, transparency and examination. Marcu outlines the procedures that render financial planning and resource allocation more efficient and effective, including the planning frameworks, principles to govern system accountability, the main processes for financial planning, and dilemmas surrounding resource allocation.

- **Planning and Allocation Frameworks**

Marcu clarifies quite correctly that defence financial planning and resource allocation are integrated into a broader concept of defence planning, which varies significantly across the states of Europe. He is able to generalize, though, that defence planning comprises organisations and institutions that broadly comprise policy formulation, force planning and resource allocation. Though the broader defence planning structure comprises multiple institutions, with regard specifically to the financial planning spheres are legislative bodies, with specialized internal commissions; executive agencies with key functions for planning, finance and resource allocation; and the ministry of defence itself. Enhancing the dynamic among these functions are the sometimes competing formal and informal institutions, including legal frameworks, enforcement mechanisms, and customs and traditions. Despite the wide variance in governmental systems and national norms that arrange state-society responsibilities and actions, Marcu does define the broadest considerations for maximizing the efficiency of any financial planning system.

- The responsibilities of the different levels typical to democratic governance - legislative, judicial and executive functions - should be well defined. The legislature must provide regulatory laws and procedures and budgets, while the executive establishes complementary policies and compromises to conform to the budgetary constraints.
- Established and clear mechanisms for the coordination and management of budgetary and extra-budgetary activities are essential for efficient resource allocation. These mechanisms include not only the methods and procedures during the execution phase, but also the decision-making procedures and responsibilities. A principal concern is to delineate who is formulating the strategic assessment and the policy options, for what timeframe, and who authorises and controls the implementation of decisions.
- Relations between the government and non-government public sector agencies should be based on clear arrangements, to avoid inappropriate decision-making and even corruption. All activities should be conducted based on rules and procedures that are applied non-discriminatorily.

Comprehensive budget laws and openly available administrative rules should govern any commitment or expenditure of public funds, especially for all contracts signed within the defence sector. Closely related, standards of ethical conduct of behaviour for public servants – civilian and military - should be clear and well publicised.

Marcu cautions that there is no clear established framework for financial planning and resource allocation, and that inherent personal biases will inevitably shape the systems in a way that reflects those orientations. While one group may emphasize economic efficiency, another may shape procedures consistent with legal norms and standards.

- **Principles of Planning and Allocation**

Relying on common sense, and a commitment to understanding the financial considerations of national defence, Marcu argues that an initial, primary understanding is that defence is a purely public good, and that production that supports national defence has specified characteristics. Therefore, the price a nation can or is willing to pay for its defence is not formed through an idealized market demand and supply equilibrium. Rather, instead of multiple consumers and producers, the state is the sole supplier of national defence, and in turn the state establishes prices, and the quality and quantity of defence "product". Marcu's contention is that the "fact that defence is a purely public good should raise the awareness of managers and financial planners that they operate in different conditions from the market environment". With this awareness, certain principles should drive most considerations.

One universally-applicable principle is that the state-formulated defence objectives and its planning assumptions should be measurable in terms of specifications of the final product or status of readiness, within a timeframe for achieving those objectives, and considering cost limitations. Decision-makers and planners need to understand the financial and non-financial effects of each decision to create a holistic awareness of the total cost of each defence programme. Another guiding principle dictates a periodic evaluation of the financial conditions defence programmes, at the strategic and at the operational levels. Periodic evaluations may reveal costs that may be cut, payments that could be postponed, and or a reallocation of resources toward high-priority activities. Additionally, defence planners should adopt as a principle that unforeseen - and therefore unplanned - expenditures in the defence realm are the rule, rather than the exception. Any solution that the financial planner adopts to meet this principle depends very much on culture-specific norms and procedures. A final principle is that money spent on expertise is, historically, well spent. Permanent or *ad hoc* boards and commissions serve to save money, tailored to the specific organisational and planning environments.

- **Creating Transparent and Efficient Planning**

Understanding that the broad objectives of financial planning and resource allocation are to control fiscal expenditure, to achieve maximum efficiency, and to determine an optimal defence composition, Marcu highlights several steps calculated to enhance financial transparency and planning.

The first step is to determine and review available financial information, both at the strategic and operational levels. The most essential information component is the maximum national defence expenditure a state is willing to bear, expressed in terms of percentage of national GDP and the actual monetary value. Information should also be collected about the needs and demands of the different various public services. Even if the process is a top-down approach, the financial planner must be aware as to what resources the services and lower agencies may expect to receive to accomplish their goals. Another important piece of information the planner needs to know is the level of

detail the agency's plan is expected to discuss, making tradeoffs on everyday efficiency and allowing for broad analyses.

The next step in financial planning is the development of financial planning recommendations and alternatives to the appropriate manager, commanding officer or senior civil servant. The main condition here for the financial planner is to have enough relevant information about those objectives and the policies the manager formulates for his or her organisation on how the objectives may be attained. The recommendations should start with planning assumptions based on the information available at that moment. Those assumptions should address the uncertainties and the risks that might alter the execution phase of the budget. The recommendations should include the appropriate ways to achieve the goals, evaluation of the impact the financial actions may have on other organisational actions, prioritisation of different courses of action, cost-benefit analysis, and detailed activity plans for each course of action.

After these steps are taken, Marcu emphasises that for sound democratic practice, it is highly desirable that financial planning processes be transparent. As one ascends the hierarchical structure, the more important process transparency becomes. There should be multiple opportunities for key organisation members and for subordinate elements to be involved in the planning process during the earliest stages, and for planners at lower echelons to acquire the information they need to draft their respective plans. Transparency within the organisation and to the extent possible the public helps to ensure that the resource allocation process is fair and serves the higher national objectives. Together with the focus on policy programmes, transparency implies a very active role for departments in this stage of the planning process.

- **Resource Allocation Dilemmas**

The allocation dilemma in the defence realm is not to establish which service will receive more and, by default, which service will receive fewer resources. Instead, the dilemma is about what should be satisfied by the allocation process: the demands issued by the military services and the other state agencies, or the goals set by current policies. It is also about how to balance the trade-off between operating costs and development costs. This dilemma may be solved by a well-articulated defence policy that integrates the political vision and political options of the parliament, the executive, the government, the military and the overall society. Based on this policy, any defence consideration, including personnel matters and when to send troops abroad for peace-support operations, would be soundly justified and easily accepted by the military and society. In any form, a defence policy document should address some basic elements with straightforward consequences in the resource allocation process. The political objectives and the strategic military missions should be clear and based on the political mandate and institutional requirements ensuing from the constitution and the organic laws governing the defence. Those objectives should be accompanied by a broad description of the desired outcomes.

Any approach to financial planning and resource allocation should be contextual and should capture the specificity of the defence-planning environment in a given state. Financial planning and budgeting, if handled properly, may become a

significant transformation engine of the defence establishment, but those domains should be maintained at the same pace as the defence policy and strategy, and with force planning, as being not only a part of the same domain, but also part of the same culture. All states would do well to recognize that there is always room for improvement within their defence establishments. Calling on the range of international experts to enhance financial planning and resource allocation methods should be a first step.

Defence, the State and Funding

Controlling the whims of the executive by restricting funding has proved over time to be the most effective mechanism, and arguably nowhere is this more the case than in defence-related matters. In the European context, those countries that opted for membership in the Atlantic alliance more often than not developed their own domestic political systems at the same time NATO was developing its own. Therefore, NATO's procedures reflect those systems inherent in its earliest members, requiring little additional harmonization with its long-standing membership. New members, however, have found the details of membership more difficult to adopt and instantiate into their still-young democracies. The travails of Hungary's forming liberal governance concurrent with NATO membership represent well the common problems of the Alliance's newest members.

In "Economically Viable Management of Defence Spending", Mihály Zámbori discusses the Hungarian experience in developing modern, transparent defence planning and budgeting mechanisms. In his decidedly biased chapter, Zámbori argues that what Hungary needs is what he refers to as the Defence Planning System. Not only will this system serve Hungary's needs, but it should also be the model for the latest addition to NATO's membership rolls.

From the former members states of the Warsaw Treaty Organization, the transition from the socialist "style" of managing state resources was difficult across the spectrum of state and society, but the emphases on centralized management of the economy and a Moscow-dominated security system hit the economic and defence spheres especially acutely. Because of this particular nexus of money and defence, these socialist states were forced to adopt responsible budgeting and planning systems for the first time. Changing defence postures was easy; changing attitudes to consider fiscal constraints for the first time was significantly more difficult. In the Hungarian case, the civilian and defence leadership were able to choose between the variety of budget planning processes from country to country, what Zámbori labels a double-vectored method, the so-called "top down" technique; based on these, the budget estimates are worked out at lower levels and sent back to the central planning bodies to be summed up into unified estimates. According to legal rules and budgetary experiences, countries can design their own annual defence budget structure. It is a general characteristic to separate personnel and maintenance costs as well as research and development (R+D) expenses.

The tumult of the 1990s, when NATO membership became a principal aim of Hungarian foreign policy, put the entire defence apparatus under scrutiny and served as

a force for change. Hungary became a NATO member on March 12, 1999, which resulted in conferred rights and privileges, but substantial commitments as well. Because of these new membership commitments, Hungary found it crucial to establish a budgetary system fully compatible with NATO standards. In the field of defence spending, the new Defence Planning System, or DPS, was and continues to be responsible for Hungary's meeting NATO standards. The highlights of the plan include:

- **Task Orientation - Cost Sensitivity**

Under the Hungarian DPS, budgetary demands are linked to concrete tasks, not to estimated limits. This reliance on real tasks requires the establishment and operation of a financial management information system, which is suitable for summing the costs of the given tasks by unified methods in the whole spectrum of the national economy. With the help of this cost-calculating method, beside the direct costs, the divided part of the general costs related to a given task can be charged (generally in the proportion of the indirect costs).

- **Complexity**

The complex defence planning is such a system, which is based on continuously updated, legislatively approved military political requirements (reflecting the security interests of a sovereign state) and on concrete defence performances (broadly negotiated by the government). Consequently it assures a balanced, flexible, multi-time framed planning.

- **Forward-Looking**

Zámbori asserts that military planning must contain different time frames. The different termed plans - long, medium and short - are based on each other, which results in a unified system of plans. As a component of the DPS, the program budgetary planning method (PPBS, which emphasizes that tasks stem from real projects) serves well the goal that the different time periods are based on each other, because it calculates the estimated total and annual effects of multi-year development tasks, so it gives an opportunity to incorporate them to the different termed plans. The harmony of state and military planning should be guaranteed by the operation of the mid- and long-term planning system of the state administration.

- **Flexibility**

During the realisation of a plan, its deadlines and conditions may change to require the modification of the plan. The continuous "maintenance" of the connected planning periods creates the possibility of "rolling". This rolling planning offers a flexible way

to list realistically the short-term tasks and to refine and complete mid- and long-term plans.

- **Transparency**

The "products" of military planning must be frankly represented in order to have the plans approved and supported, and the most effective vehicle to do this is through the media. In short, democratic control over the defence of the state dictates that it is necessary that the taxpayers see how the state spends their money. This can be done by a synthesized presentation of plans, use of clear and easy language, and the explanation of military categories and terms, and at the same time adhering to the rules on military and state secrets. The presentation of plans has to make it possible to compare and analyse them.

Though these highlights indicated the advantages of using a systematized planning system for defence, in actuality the process involves a complexity of issues to include a controlling mechanism, budgeting, military planning, and anticipated procurement expenditures and needs. Zámbori is very strong in his personal belief in this system, which he describes as "a well-established, efficient system" and a system that Hungary cannot afford to ignore. The interoperability required by NATO combined with the unified defence planning of the Alliance, the efficient management of defence spending, and the political intentions to ensure transparency of defence budgets are the most important reasons for continued adoption of the Defence Planning System. In his final unequivocal sign of affirmation that Hungary is making the correct decisions as regards defence planning, he believes, "The changed political environment, constantly changing rules, and the requirements of NATO membership all represent challenges to DPS, but it is flexible enough to handle these".

- **International Cooperation**

Perceptions of the world drive state responses. Risking gross simplification of the conceptual differences between structural realist interpretations of the world and the more liberal, ideationally founded theoretical constructs, the former interprets a world of competitors who care principally for power and survival while the latter calls for greater possibilities for cooperation.

International Cooperation and Good Neighbourly Relations

Pál Dunay's "Arrangements to Ensure Effective International Cooperation and Good Neighbourly Relations in Defence and Security Matters" is emblematic of this realist paradigm, where states cannot wholly trust each and compete for military superiority. With this adoption, states seek to improve their standing relative to their competition. Though not the kindest of worlds, not believing that this realist world exists places the state's entire population at risk. Who among us would risk such a nontrivial matter as this?

Dunay correctly establishes that the bipolar competition between the United States and the Soviet Union overshadowed and influenced all security decisions, foremost among them military conflict through proxies. The post-Cold War security environment forces more demanding analysis and precision in military decisions. It is in this environment of unipolarity, with the US dominating militarily and economically, the rise of regionalism, and the proliferation of liberal political systems globally, that states must interact in formulating defence decisions. This plain juxtaposition demonstrates just how quickly state actions become tangled and complicated, particularly when extra-national actors can threaten a state's citizenry right in their own major cities. One of the manifestations of these complex interactions is the growth of international organizations that aim to promote regional and international security. Dunay's chapter focuses on these institutions, particularly regional and sub-regional arms control, the "Stability Pact", policies of the European Union, and certain aspects of Partnership for Peace.

- **Regional and Sub-Regional Arms Control**

With the paling of the East-West conflict and the diminished threat of nuclear war, the last decades of the 20th century saw a proliferation of regional security arrangements to further control potential regional security threats. The confidence-building measures that prevailed during the Cold War, whose principal aims were to reduce large-scale offensive action in the East-West context have today largely lost their relevance. Within this vacuum, mechanisms with sufficient flexibility were to address the unpredictable scenarios of the contemporary world. In this environment, a number of mechanisms were introduced, to include the Moscow mechanism for problems in the human dimension, the Berlin mechanism with regard to emergency situations, and the Vienna mechanism for ill-defined military contingencies.

Dunay's analysis of the Vienna instrument specifically demonstrates that confidence-building measures that offer few incentives for voluntary cooperation and even fewer instruments to ensure compliance lose much of their force and, therefore, their ability to function as desired. As he notes, "Despite their benefits, regional arrangements also present certain risks". Dunay argues that European states must think harder to ensure that the pan-European processes to enhance confidence and stability are not threatened by a fixed and diverse "patchwork" of local schemes, though the chances for agreement on Europe-wide measures remain slim. What is likelier is that any European agenda will continue to be enriched through the adoption of regional and bilateral confidence-building mechanisms.

- **Sub-Regional Cooperation in Europe**

With the end of the Warsaw Treaty Organization, the 1990s witnessed a growth in cooperation in East-Central and Eastern Europe whose general purpose was to promote cooperation. Improvement in the political atmosphere has had demonstrable spillover effect for regional stability and, in turn, security. The record of performance of these

entities, most notably the so-called Visegrad Group, has been spotty, especially with the compulsory actions that NATO membership incurs. Perhaps other, formerly Soviet, states that do not desire nor will gain NATO membership will seek to adopt enhanced sub-regional security cooperation. For the time being, this mechanism for cooperation seems limited.

- **The Stability Pact**

Among the various approaches developed by the West to enhance security and cooperation in South-Eastern and East-Central Europe, one of the dominating efforts is the West's encouragement for states of the regions to develop sub-regional cooperation. Of the myriad bi- and multilateral agreements that grew from this encouragement, the Stability Pact stands out as deserving special attention and analysis. Stemming from the two major concerns as to potential sources of conflict - territorial claims and conflicts over the treatment of national minorities - European states (and France in particular) sought to develop methods to blunt these impulses. The Stability Pact was successful in preventing further violence in East-Central Europe, though Dunay attributes many of its accomplishments to the influence the EU had over its membership aspirants. He notes that, "The Stability Pact has demonstrated that the West is able to foster intra-regional relations in that part of the East where it has significant leverage". Where the desire to join the EU was less pressing, however, there was much less ability to influence state behaviour.

- **The EU's Neighbourhood Policy**

With efforts to re-establish traditional inter-state relations that had been severed during the Cold War, Europe has spent considerable effort to ensure that it maintains solid relations with all states of the region, especially those that desire EU membership sometime in the future. In Dunay's assessment, the enlarged West has recently become more anxious about the sparse regional cooperation. It was this concern over a lack of cooperation that the EU launched an initiative - the "New Neighbourhood Policy" - whose objective is to prevent the emergence of the perception of exclusion after enlargement. Targeting states that have no chance of joining the EU given present realties, the EU nonetheless desires to maintain amicable relations with these bordering states, especially on issues centreing on borders, regional cooperation, addressing poverty, and other assistance. Dunay suggests that if the EU does not continue to address the states along its expanded borders, the organization risks the ire of its neighbours - or worse.

- **Partnership for Peace (PfP)**

To engage systematically their former adversaries, NATO members recognized that some mechanism had to be developed hastily to promote not only future interoperability but to placate non-members by giving them concrete tasks to fulfil.

Because the Alliance has no armed forces *per se*, it created bilateral links between members and most of the rest of Europe. It is through these links that NATO has been able to prepare some countries for membership and to contribute to the modernization of the militaries of many others. The PfP Planning and Review Process (PARP) has been a primary tool to promote interoperability by clarifying the requirements for participants to attain, including an extensive review process to measure progress. Though the PfP has undoubtedly had many successes in brining new members successfully into the Alliance, Dunay objectifies the program's limitations. "It has undeniably been a shortcoming of PfP that it has established links primarily between members and partners and paid far less attention to relations between partners", he writes. "This has resulted in a situation in which NATO has become and remained the epicentre of the relationship. This understandably meets the security interests of NATO, its member-states and like-minded countries. It remains to be seen whether such a structure meets the interests of every country associated with the programme".

In a final analysis that seems truly counterintuitive, the end of the Cold War was not a sufficient enough circumstance to force states to pursue new regional bilateral agreements. Rather, as Dunay concludes, outside influences were the greatest impetus in those frameworks that flourished. Those outside actors are the real powers in a "new" Europe, and reflect the rearrangement of power and influence in Europe since the end of the Cold War.

Managing State Intelligence - A Universal Primer

The only contribution to this volume that concentrates exclusively on the use of intelligence in a democratic state, Fred Schreier's chapter on "Intelligence Management and Oversight" serves as a useful condensed source on the development and application of intelligence systems and the functions to control them. Unlike many other works that may assume more extensive background knowledge, Schreier quite usefully describes in the first several pages not only what intelligence is but how an intelligence apparatus can serve the state. But his principal aim - consistent with this book's goals of fostering and improving the security functions within a democratic context - is to provide insights into how a state can best manage its intelligence function.

- **Managing the Intelligence Cycle**

As Schreier notes, intelligence functions serve policymakers through their main activities of intelligence collection and analysis. These two activities are further refined, especially in the most developed and wealthy states, which leads to a process through which governments request certain types of knowledge. Quite common in these established systems is the concept of an *intelligence cycle*: a process by which information is acquired, converted into intelligence, and made available to policymakers, military leaders, and officials or agencies that need intelligence in conducting their duties and responsibilities. This intelligence cycle involves five

iterative steps: 1) *planning and direction*; 2) *collection*; 3) *processing*; 4) *production and analysis*; and 5) *dissemination*. All five are worth summarizing to give a sense of how executives can intervene in each step.

- **Planning and Direction**

This involves the management of the entire intelligence effort, from identifying data needs derived from the threat assessment or the priority listing of yet unsolved strategy and policy issues, deciding which states, international and domestic actors warrant intelligence scrutiny, to the final delivery of an intelligence product to the customer. This whole process is initiated by requests or intelligence requirements on certain subjects based on the ultimate needs of the customer.

- **Intelligence Collection**

This is the gathering of information to eventually produce finished intelligence. This process involves open and secret sources, and the range of technical collection disciplines that a state may (or may not) possess.

- **Processing**

The processing of intelligence surrounds the conversion of vast amounts of data and information into a more useful format for an intelligence analyst, to include language translation and decryption. Information that does not go directly to analysts is sorted and made available for rapid computer retrieval.

- **Production and Analysis**

This is the conversion of processed information and knowledge into finished intelligence products, formatted as briefings, brief reports or lengthier studies. Analysis depends upon human interpretation to evaluate and assess events and conditions, drawing upon a blend of open information and secrets. Subjects that intelligence analysts may be expected to comment on are limited only by state resources, though common categories include current events, intentions, capabilities, possible and probable future developments, different regions and problems, organizations, groups or personalities in various contexts − political, geo-graphic, economic, financial, scientific, military, or biographic.

- **Dissemination**

Completing the intelligence cycle, dissemination involves the handling and distribution of finished intelligence to the consumer who triggered the initial intelligence cycle. It is a phase rife with opportunities for error. The information must have five essential

characteristics for it to be useful: relevance, timeliness, accuracy, breadth, and be as apolitical as possible.

As Schreier argues, effective management of intelligence is dependent on the optimal mastering of the intelligence cycle. Though this overview of the intelligence cycle is a potentially gross over-simplification of the intelligence processes that exist in developed states, it does serve to point where political leaders and government officials can intervene effectively to best manage the process. By defining their intelligence requirements, policymakers serve to focus the intelligence services' efforts while allowing these services to manage their everyday affairs. The intelligence functions that will thrive in the future will be those that can fuse all elements of the intelligence cycle to provide seamless support for their most important customers.

- **Overseeing Intelligence**

When analyzing political institutions derived from particular national histories, cultures and traditions, there is inevitably significant variance across cases. So is the case of the oversight of intelligence services. As Schreier notes, "There is no single model for 'democratic control', neither is there a definitive normative model for democratic control of intelligence services". There remain sufficient commonalities to include that effective oversight involves to varying degrees all three functions within a democratic structure: executive, legislative and judicial. For democratic oversight to succeed, all sub-functions must play their specific roles within a greater "package" of control, accountability supervision and oversight, with the ultimate purpose of providing an assurance of legality, proportionality and propriety for intelligence functions that are by their nature conducted with little public contribution.

- **Executive Control and Accountability**

Critical to the notion of executive control of the intelligence services is the need for clear guidance to the services. As Schreier describes it, the policymakers' direction must be both the foundation and the catalyst for the intelligence agencies. As typical in most bureaucratic entities, if intelligence services do not receive direction, the chances of resources being misdirected and wasted increase. Intelligence services need to know what information to collect and when it is needed. They need to know if their products are useful and how they might be improved to better serve policymakers. These policymakers need to appreciate what intelligence can offer them, and become more directly involved in the ways in which intelligence capabilities are used.

- **Legislative Oversight**

To ensure that the intelligence apparatus is truly serving the needs of the polity and not abusing its prerogatives, ultimate authority and oversight must rest with that governmental body that most represents the governed: the legislature. Though it is usually given that elected representatives must oversee the intelligence functions, in

reality few members of any national legislature have the professional backgrounds to effectively do so. But, as Schreier makes quite clear, this lack of experience does not exonerate the legislature from its required duties. There are four broad approaches that a national legislature can employ to manage its intelligence functions:

- **Oversight**

Monitoring the implementation of legislation, initiating hearings and inquiries when problems arise, and determining whether legislation is having its desired effect.

Because of their extensive knowledge of the desires of their constituents and what government policies they will accept, legislators can provide a *second opinion* tendered in executive sessions closed to the public. Whenever great national costs and dangers are involved, this function is vital.

- **Transparency**

Through their oversight committees' debates, hearing and reports, national legislators can increase the transparency – public visibility – of the intelligence services. This enhanced transparency serves to improve accountability over the services' activities, and to boost public confidence and national support.

Lastly, the national legislature provides an essential *link between the services and the public*. Because most intelligence activities and information remains secret to the public, legislators must have the right to request reports, conduct hearings and investigate allegations of abuse.

- **Judicial Control**

When compared to the relatively unlimited oversight enjoyed by legislators, judicial control and supervision are in most instances rather limited. In general, judicial control concerns legal, not policy, issues. The judiciary reviews and interprets the constitutionality of all laws. Its role in controlling intelligence is usually modest, but can be significant when the actual conduct of intelligence activities is reviewed. The fact that intelligence activities could be subject to an independent court review creates some anticipatory control. Though the judiciary is more deferential to the executive branch in intelligence matters, judicial control can act as arbiter of government secrecy in powerful ways. Though no universal model for judicial control exists, certain 'best practices' help to identify potential considerations: the intelligence services must consider themselves bound by the laws of their country to the same extent that they feel bound to guidelines and directives; courts should be involved before electronic surveillance and searches within the country take place; and they should ensure that collection techniques for internal intelligence respect developed standards of privacy, civil liberties and civil rights.

- **The Public's Role**

Though less involved in the everyday matters of the intelligence services, the public sphere has the potential of having a major impact on the legitimacy and activities of the national intelligence services. Legislation can encourage active participation by a national civil society – nongovernmental organizations, human rights groups, interest groups and individuals – and the media. A structural factor that allows intelligence activities to become public after a time, like the US's 'Freedom of Information Act', can inform the public and allow for scrutiny of the intelligence services. Additionally, unclassified outlines of the broadest threat concerns of the state allow for not only greater scrutiny and control, but increased public support as well. There are myriad other opportunities to enhance the public role, such as making public concerns for potential abuses of human rights and violations of civil liberties, assisting victims to access information, and helping to shape new legislation. Though more controversial, the media play an essential role in fostering intelligence service accountability. Through their investigative approaches, journalists can bring to light abuses and failures by the intelligence services, though frequently the media have been negligent in its professional obligations. Despite these risks of media irresponsibility, national media must remain to check egregious abuse of power.

Schreier's chapter goes far to explain in accessible terms the state-society dynamics surrounding national intelligence agencies. After explaining what intelligence is and what it can do for the state, the remainder of the chapter focuses on the important aspect of democratic control of potentially predatory agency. Despite there not being one example for proper democratic oversight, Schreier's work makes clear that all levels of the state and society must be continuously active and engaged to ensure that the critical function of intelligence does not eventually subvert the democratic intentions that developed the intelligence services.

- **Parliament and Procurement**

Echoing the demands that the modern security environment places on national and international defence requirements, Van Eekelen's "Parliaments and Defence Procurement", is a comprehensive overview of the processes and procedures of the defence procurement dimension of national security. Those who have worked in any aspect of defence procurement in developed states understand the complexities – and absurdities – inherent in them. Van Eekelen's warning to parliamentarians to be cautious in their efforts at overseeing the process is well founded. As he argues it:

> Defence issues in general, and procurement in particular, often are far from transparent and difficult to follow. Even if the information is available, and it often is obtainable from open sources, considerable expertise is required in making sense out of the multitude of claims and counterclaims, biased and unbiased, influencing the debate. Parliamentarians need to remain critical and to orientate themselves as

widely as possible, using professional staff, drawing on think-tanks and consulting non-governmental organisations.

In short, there are few areas in which national parliaments can impact the defence establishment more directly than through defence procurement, though to do this effectively may prove difficult in practice. In this frame, Van Eekelen provides the broadest guidelines for an effective implementation of national involvement and oversight in the procurement endeavours.

Characteristics of Defence Procurement

Defence expenditures are inherently different from other national expenditures and the end of the Cold War, in Europe at least, forced defence to take a subsidiary role to many other social and security demands. With the increasing demands of the changed security environment and the competition for scarce resources, the need for parliamentary input to insure responsiveness to a democratic polity is as great now as ever. Within this context, Van Eekelen provides the framework for legislative involvement in the defence procurement process.

At least in theory, every procurement cycle will start with the determination of the operational requirement, a task that has become significantly more difficult in the post-Cold War era. As Van Eekelen notes, with the prominence of protection against the Soviet threat against West Germany, defence planning and subsequent procurement were significantly much easier. In the contemporary security environment, the requirements of intervention differ greatly from that of territorial defence and have had substantial impact in the areas of reconnaissance, transport, logistics, and equipment. Flexibility and mobility are the new catchwords, which, in his contention "could not entirely make up for the impossibility of quantifying requirements".

The first step in the process illustrates the symbiosis between the executive agencies and the legislature. The first communication should be sent to parliament when the general operational requirement is determined: the type of equipment and a general indication of the numbers needed. Once a proposed requirement is approved, the next phase concerns preparatory studies to explore the requirements as well as potential suppliers. The operational requirements have to be translated into technical specifications, followed by a procurement strategy, and a timetable for production and delivery to the armed forces. The idealized third and fourth phases entail a thorough study of the information provided by interested suppliers to determine their ability to meet requirements followed by preparations for the intended acquisition based on the field of negotiated offers, possibly complemented by trials. This final phase is usually typified by lobbying, and more intense scrutiny by media, think-tanks and parliamentarians. Moreover, it is during this phase that legislators and procurement specialists have to be particularly cautious not to accept favours that give an appearance of influencing their judgment. Van Eekelen notes that this idealized sequence, or other similar processes, is practiced in only a few NATO countries.

After a lengthy juxtaposition of the US and European defence industries and policies, Van Eekelen summarizes more concretely the methods through which national legislatures may provide oversight of the defence establishment in general, and the procurement process in particular.

1)   Working through the parliament, the government updates its security concept and security policy regularly. This executive-level concept must specify national defence needs as specifically as possible, and be accompanied by a threat assessment process.

2)   Parliament can help determine the national level of ambition for participation in international peace support operations, and can define concrete contributions in terms of units and skills and readiness for deployment outside the country.

3)   Personnel and equipment levels should be geared to these ambitions, including training, logistical support and cooperative arrangements, preferably in the form of 'force packages', forces trained and ready for deployment as soon as a crisis erupts and the political decision to join the operation is taken.

4)   In NATO and the EU more attention should be paid to the acquisition plans of allies and partners.

5)   Specifically for defence procurement, Van Eekelen asserts that the most important role for parliament is to make sure that governments apply the democratic processes of "reveal, explain and justify", and this also to the equipment sector.

For budgetary control, parliamentarians have to be convinced that there will be sufficient funding for the plans submitted to them, not only in the current year, but during the entire acquisition phase as governments have a tendency to underestimate price escalation in long-term projects, and to be more optimistic about future resources than in the current year. Cost overruns are frequent, delays occur, and flanking programmes are becoming more expensive than budgeted. As defence procurement involves long lead times, it is important to assess the impact on long-term capacity building to ascertain how new equipment will fit into a harmonious composition of the armed forces. The current emphasis on "jointness" makes this even more necessary.

Though Van Eekelen's cases and analysis are restricted to wealthy states with established democracies, his chapter does serve to advance the goal of promoting effective democratic institutions in liberalizing states. First, he underscores the need for vigorous debate and scrutiny of the defence establishment in all countries, but perhaps even more in states that are most able to take advantage of and exploit technological innovations. No parliamentarian is able to rest on his laurels. Second, security demands force parliamentarians to be responsive in their established views of the best use of their security assets. Countries with a more bellicose military tradition, states that privilege defence, and those whose national values emphasise peace support all must now incorporate broader notions of what it means to secure their populations. And parliaments are the essential vehicles for ensuring the popular norms and values are reflected in defence establishments.

Media Relations, Information Policy and the Military

These two chapters centre on one of the most contentious and important issues in ensuring that military and security actions are consistent with democratic principles: the flow of information to a scrutinizing public. Different in scope and tone, Robert Pszczel's and Hari Bucur-Marcu's chapter each offer the reader important observations for formulating media and information policies that best serve the publics they are meant to protect.

"Information Standards, Media Policy and Public Relations"

Arguably the most pragmatic of the offerings here, Robert Pszczel's "Information Standards, Media Policy and Public Relations," is an essential primer for those interested in maximizing the often-tenuous relationship between state organs and open and independent (and for-profit) media. Pszczel's aim in this compact piece is to demonstrate that the media and the state need not necessarily be opposites, but rather that they may enjoy some form of symbiosis in their complementary pursuits of maximizing exposure for state activities. Due to the infinite readability of Pszczel's entire chapter, this summary highlights some of his more interesting conclusions and assertions.

- **Communications and the State**

Intended or not, Pszczel discusses the evolutionary nature of states and societies where their respective contemporary reality remains affected by authoritarian legacies. Though not necessarily privileged by international donors and observers over the more dramatic processes such as elections and parliamentary debates, open media continue to be recognized as an essential element in democracy's sustenance. Pszczel forwards that defence and security organs have an especially important obligation to keep the public informed of their activities. As he argues, today's more sophisticated public and military personnel demand that their government provides more rationale for military and security actions. In Pszczel's view, "Today the security community has every right to expect to understand fully the rationale for a particular policy".

- **The Place for the Truth**

Citing the errant NATO attack on a civilian refugee convoy in Dakovica in 1999 and the Russian disingenuousness during the Kursk submarine accident in 2000, Pszczel highlights the levels of truth that state media professionals must deal with in everyday work as well as during contingencies. In the former, NATO officials could not seem to get the clearest of details to media officials to feed deadlines and round-the-clock news cycles. Instead of being deemed cautious, NATO officials feared being labelled as unforthcoming. In the Kursk incident, Russian actions (or in-action) earned officials the

label as untrustworthy, which has since required inordinate measures to attempt to win back media trust. The "Truth", then, is a precious thing that must be considered and safeguarded at all times, even against mounting pressure for immediate information.

- **Flexibility**

Pszczel recognizes the importance of allowing for a variety of approaches in getting the message out as clearly and quickly as possible, depending on local conditions and events. In this vein, he provides several broad guidelines that media professionals should consider. The first is an ability to increase exposure to the media in response to events. While peacetime operations may only require scheduled, weekly press briefings, crises call for more information more quickly, such as more briefings and dedicated websites. A second example of increased flexibility is the willingness to try new methods, such as the increasing practice of embedding civilians with military units. Though not without its critics, these "embeds" have enjoyed unprecedented levels of access. Lastly, local considerations must dominate any media plans. If local populations demand a particular approach – print over radio, for example – official media must accommodate if they desire any level of effectiveness.

- **The Role of Professionals**

Leaving no doubt as to his judgment on the topic of dedicated information officers, Pszczel forwards that, "the only sensible conclusion one can draw is that there is no substitute for professionalism in this respect." While there is no set prescription for what makes an effective media officer, there are certain traits that can help ensure a more successful interaction, including a solid knowledge of the organization he is representing, as well as a good understanding of the media world. Moreover, personal contacts between officials and the media are critical to providing some linkage to ensure that all aspects of a story are represented. This relationship can only be built through multiple experiences that build mutual trust and understanding.

- **Access**

Pszczel hits on one of the most sought-after privileges in any large bureaucracy: access to information and policy-makers. Though savvy leaders understand at least in the abstract the need for rapid dissemination of information from the "front office", entrenched hierarchical structures and cultures often hinder this ability. Underscoring again the need for full-time media professionals, access to information can only be assured through coherent planning that comes from dedicated personnel.

- **The "Special Case"**

Because of their unique missions and mandates, the military and security apparatuses require special treatment when dealing with the media. Because of Pszczel's extensive experience in the organization, he uses NATO as a case study to demonstrate the importance of his first major observation: the division of labour between civilians and the military. Though civilian primacy is clear, Pszczel forwards that the military component must never be left unconsidered, especially in contingency locations. There is no firm guidance for a clear delineation of responsibility, but it seems clear that for strategic issues, the headquarters (be it in Brussels or the Pentagon) is the correct office. Tactical matters can best be handled locally.

- **Security**

Pszczel forwards three special security instances that any media plan must consider: operational security that might jeopardize units and future operational actions; the protection of classified information; and the protection of journalists themselves. Pszczel's contention that, "good rules for a media policy apply, a security and military environment places an even greater premium on sound planning, professional expertise and thorough understanding of the media community."

- **Conclusion**

Pszczel's desire to make a "small contribution" to improving relations between the media and public officials is achieved in this chapter. Certainly giving primacy to his experiences with NATO, his observations will prove to be an interesting insight for any emergent bureaucracy intent on forming and retaining media professionals.

"Defence Institutions and Information Policy"

With an interesting overview of the evolution of defence media and information policies, Hari Bucur-Marcu's "Defence Institutions and Information Policy" serves to remind us of the importance of working to ensure that an as balanced a perspective as possible is finally distilled and disseminated to the public. In his estimation, the media is now a much more complex environment for all professionals, with the dual aspects of a much more sceptical public and more outlets for information. As Bucur-Marcu so aptly describes, in this new information-centred world,

> Defence matters that were traditionally taken for granted are now questioned for their validity, efficiency and even morality. The Internet, as the most visible expression of the information era we live in, has the potential to provide unclassified, non-sensitive information to the general

public without the need to spend time and effort 'digging' for information in archives organised in complicated patterns.

Framing his chapter (quite rightfully) with the contention that "public ownership" of governmental information is an essential right, he provides the reader who possesses a policy bent with tools to help develop media and information polices in transitioning and developing states.

Defining information policy on defence matters. Bucur-Marcu clearly differentiates between two competing functions of media officials: public information and public relations. With a small risk of semantic error, the former relates to the need to disseminate information produced through officials and public institutions, while the latter concerns itself with informing the public, but with very specific ends and means. Clearly articulating an information policy remains among the more critical tasks for public officials responsible to an often-wary public. To give a broad sense of this, Bucur-Marcu relates that,

> An information policy is required both for stating the ends and means of public information, and for clearly defining the boundaries between public information and other information activities within the defence establishment. Apart from this organisational role, an information policy is a powerful tool for enhancing public confidence in the quality and trustworthiness of the information released by the Ministry of Defence. As a concept, information policy may be seen as the framework for developing and managing information resources, infrastructure and institutions.

> As a practical matter, the information policy may take the form of a single document or a multitude of documents, but in either case, it should be to articulate certain basic principles, to include: the type of information that may be disclosed or should be withheld; how to access information; and the official responses to these requests.

- **The Strategic Importance of Public Information**

In business, government, academic and personal spheres, all good decisions rely fundamentally on good information. Bucur-Marcu argues quite effectively that the defence structures should view the information they produce as a strategic national resource that has significant political, economic, and social ramifications. With this recognition come several responsibilities. First, there must be an upfront political commitment to approach the producing, collecting, preserving and disseminating of defence information for public consumption and to invest real organizational resources in all related processes. Second, using the logic of a for-profit business model, there should be the recognition that while all related expenditures to handle information may become costly, the returns should always be higher in economic terms as decision-

makers can round their judgments with few surprises. Third, because of the socio-political nature of defence matters in democracies, a well-informed public is more likely to support policies more willingly. Lastly, because public information is a national strategic asset, all those concerned with sound, accountable governance must have strategic access to relevant information on defence matters.

- **A Model of Information Policy**

There is no one model that can serve every domestic situation. Instead, an information policy must incorporate sometimes competing inputs from legal constraints, legislators, various members of the national and international civil society, and the defence structure itself. To this end, the best policy that one may hope for is founded on normative values and principles that attempt to satisfy these competing demands. For example, a model of information policy is one that serves both the producer of the information (the various defence agencies) and the consumers of that information (the public). Moreover, an information policy should maximize the ability of the public to understand military structures, budgets and activities so that they may be able to request and access public information. In sum, the more easily a public can wend through a bureaucratic maze to gain access to the information it demands, the more consistent this principle is with democracy itself.

- **Balancing Transparency and Confidentiality in Designing Information Policy**

In a rather refreshing assessment of the need to balance transparency and confidentiality, Bucur-Marcu asserts that defence establishments should ensure that only the most sensitive of matters are kept from public scrutiny. Indeed, a defence organization would do well to build a structure founded on a normative value that transparency may enhance the security of a state instead of diminishing it, especially when one considers the valuable input that would be obtained from an interested and engaged civil society. He argues that, "The defence and military strategies, doctrines, budgets and procurement should be regarded as national assets capable of enhancing the credibility and trustworthiness of the defence sector in the eyes of that nation and of the international community". In other words, Bucur-Marcu contends that recognizing that the defence establishment is ultimately responsible to its public will only serve to enhance all concerned parties.

- **Information Policy Professionals**

Mirroring well Pszczel's argument for a dedicated official media cadre, Bucur-Marcu argues that there must be a related cadre dedicated to all aspects of public affairs. In a rather unique assessment, he notes that having this dedicated cadre is an indicator of the very health of a particular democracy, as well as an official commitment to implementing information policies, engagement in good practices and the development

of a cadre that shows respect and consideration for the public. If these were not enough, he explains some of the further reasons why one should consider fostering information professionals, to include:

Certain critical areas where professional personnel and leaders with the necessary knowledge and skills may prove to be more efficient than amateurs such as being better situated to explain and preserve the strategic value of information, the principles that govern the information domain and the expected higher returns for a dedicated investment in disseminating information.

Media professionals are more knowledgeable in understanding the process of applying restrictions and limitations to protect sensitive information without undermining the strategic goal of informing the public.

Dedicated cadre may have an improved sense of the institutional behaviours of their organisations, and are better able to overcome shortfalls, and have certain decision authority over the preservation and dissemination of information on defence matters.

Lastly, information specialists are also trained to handle the media and the public and usually perform better in conveying the appropriate message.

- **Conclusion**

Bucur-Marcu's chapter on public information policy serves to remind defence professionals of the importance of remembering the ultimate purpose of their efforts: to protect their citizenry and the democracy that formed the defence establishment. He contends that, "Public information policy should be an integral part of defence policy, especially when such a policy is developed under the guiding principle of defence institution building". Understanding that all defence activities and sectors require steady public support and participation, a policy that guarantees consistent public information will help ensure that this support remains steady.

Linking Civil Society and Defence

Velizar Shalamanov's "Defence Management and Civil Society Interaction and Co-operation", is a fitting end to this complete work on the role of the security services within their greater domestic and international societies. By concentrating on the interactions between the defence sectors and the constituent members of civil society, Shalamanov contributes greatly to the field of security sector reform by modelling potential interactions between civil society and defence. Because most of this book's audience is intimately familiar with the structure of most defence establishments in developed states, this summary focuses on Shalamanov's concepts toward civil society and his models of interaction between defence and society.

- **Civil Society and Defence**

Reflecting wide agreements about what may entail the idea of a civil society, Shalamanov privileges the notion of a network that overlaps and (hopefully) reinforces

defence initiatives consistent with democratic principles. Broadly, members of this network include citizens, NGOs (both domestic and international), academics, and the business community. This aggregate, in Shalamanov's assessment, "is playing a great role as a serious pillar for SSR [security sector reform] and main elements of the environment of SSR".

Focusing on the principle that the role of civil society is to generate ideas and demand the maximum transparency possible from the defence establishment, as well as its accountability and responsibility for actions, Shalamanov forwards that there are different general models of cooperation between defence and civil society sectors. On one end of a dichotomous pair is a fully centralized model – typified by society to parliament, parliament to government, government to defence staff – to a fully decentralized model wherein every element of civil society cooperates directly with any element of the defence establishment. Any empirical model does in fact differ from these ideals, where there is some nation-specific balance to achieve the goal of efficiency and civil control, bearing in mind the specific levels of maturity in the defence institutions, the elements of civil society, and whatever culture of cooperation might exist. Within this context, there are several models appropriate to each element of civil society that usually exists in developed states.

The *academic* sector may operate most effectively by providing scientifically-based methods and alternatives in official decision-making processes, security sector reform and defence transformation.

The *business community* generates input by cooperating with the defence establishment by providing its lessons learned in resource managements, pushing for increased outsourcing of non-military activities, facilitating modernization off-set programs, and providing sources for post-conflict reconstruction.

National and international *media* have a potentially more interesting relationship with the defence establishment by not only providing a potential tool for the defence officials, but also serving as a check on their actions. Though any relationship between the media and defence is certainly much more codified and structured in countries with comparatively larger defence structures and media, in many smaller states this relationship is much less predictable. Shalamanov notes that the media can cooperate with defence institutions through special investigations on key issues in society and keeping society informed of developments in the defence sectors.

Last, domestic and international *consultants* can present models of cooperation by increasing transparency and providing expertise for the development of alternatives, especially in developing non-partisan inputs that help bridge official and unofficial defence sectors.

Understanding the potential modes of interaction between the defence establishment and elements within civil society, civil society may interject during all stages of defence-centred actions, including defence policy development and policy implementation by providing public support and ensuring the development of civil security consistent with national goals.

- **Policy Development**

Recognizing a general requirement for the state to enjoy some secrecy in the development of defence policies, civil society must still play an important function in demanding government accountability. In rough terms, civil society must identify national values, goals, interests and priorities, and provide an assessment of threats and risks, as well as working toward the development of policies and building of institutions, and finishing with the resource distribution required for the implementation of security programs. In short, Shalamanov exhorts that, "the whole policy development process has to be open for participation of civil society if it is aimed at the providing of security to citizens, society and the state". Civil society is merely a participant in the main engine for a comprehensive strategic review of the security sector.

- **Policy Implementation**

Business and academic communities are especially important in this stage of the defence policy cycle, where they have an inordinate input through their functions of assessment and monitoring. For example, the academic community plays an important role in educating and training the general population not only at the university level but through secondary education as well.

- **Public Support and Resources**

As Shalamanov notes concisely, "Without public support, any defence/security policy is unsustainable in the long term". The importance of elites' fostering public security initiatives (any initiative, in practice) is a reasonably established norm, though there are a few initiatives that are sustained without general public support. In all politically liberalized states, therefore, fostering public support becomes an important component for any government that desires the continuance of its programs. An aggressive program that includes informed debate, and the development of new ideas and means to support government's and parliament's role in shaping and implementation of defence policy.

Last, civil society has a critical function in *security sector integration* so that the more encompassing aspect of civil security is adapted to national conditions. As a "third pillar" of security equal to the other two pillars of internal security and public order (e.g., police and the Ministry of Interior) and external security (usually through the military), the idea of civil security encompasses protection of the population and infrastructure from all forms of human and natural threat. Through citizen input, the government can develop a more effective and responsive notion of a civil security conce

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