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Legal Aspects of NATO's Involvement in the Out-of-Area Peace Support Operations

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ACKNOWLEDGEMENTS

INTRODUCTION

For almost 50 years, the North Atlantic Treaty Organization's role was clear and incontrovertible. Based on common values of democracy, individual liberties and the rule of law, the Alliance's "essential and enduring purpose" as set out in the Washington Treaty of April 4, 1949, was according to its preamble "to safeguard the freedom, common heritage and civilization" of its members by political and military means.

Although not specifically stated in the Treaty, for the founding and subsequent member nations, the threat until 1990 was clearly defined - attack by the Soviet Union and the countries of the Warsaw Pact. In Article 5, the signatory Nations agreed that an armed attack against one or more of them shall be considered an attack against them all. The area to be defended was well understood, and set out in Article 6.

For NATO, strategic planning throughout the Cold War was relatively simple and limited to large-scale confrontation. The general disposition, strength and even the technical capability of the enemy were fairly well understood.

The collapse of the Berlin Wall, end of the Cold War and the subsequent dissolution of the Soviet Union precipitated a tremendous and sudden shift in the balance of power. An emergence of a new world order and led to painful downsizing and restructuring of the military forces in all NATO nations.

But while the end of the Cold War removed the principal threat to NATO, it also lifted the lid on ethnic tensions within Europe and the former Soviet Union. This coincided with the emergence of new threats to Euro-Atlantic peace and stability from a wide variety of sources and directions, which were multi-directional and often difficult to predict.

As a result, NATO's gradual and often very reluctant involvement in various Peace Support Operations in the 1990s has raised questions about how NATO should decide where and whether to become involved. Process of ongoing globalization and the nature of modern threats made it clear from the very beginning, that the new security architecture can't be established without an effective tool for crisis management, capable to deal with regional and intra-state conflicts, ethnic tensions and aggressive separatism in the areas, which are most frequently outside the NATO's direct geographic reach. The fundamental question of whether NATO's members have

sufficient common interests to maintain the Alliance in the absence of a unifying single external threat to a large extent depend on the nature of these new threats, and NATO's ability to handle them

The 1991 Strategic Concept was a first attempt by NATO to clarify its role in the post Cold War New World Order and to maintain credibility in the face of critical questioning about the continued need for NATO in the absence of a clear strategic threat. Within a decade this Strategic Concept had to be extensively overhauled. Its successor had to take account of the role that NATO had been called on to play in the 1990s, with the expansion of its operational role – not to counter a massive threat from the east, but in support of peace and stability in its own backyard.

The new Strategic Concept endorsed at the Washington Summit in April 1999, emphasized that while collective defense remains the core purpose of NATO, Alliance security interests could be affected by other risks of a wider nature and therefore must also take account of the global context. It also reiterates NATO's offer, made in Brussels in 1994, to support on a case-by-case basis and in accordance with its own procedures, peacekeeping and other operations under the authority of the UN Security Council or responsibility of the OSCE. But it did not define whether or how NATO should limit its area of operation for Peace Support Operations.

This flexibility or even ambiguity of legal definition was explicitly supported at the Prague Summit last November. The communiqué issued in Prague noted that NATO needed to have the capability to field forces that can move quickly "to wherever they are needed" and sustain operations over great distance, including in an environment where they might be faced with biological, chemical and nuclear weapons. This change essentially ends the "out-of-area" debate that has raged within the Alliance in the last few years.

How far should NATO go with it's out-of-area policy? Can the Alliance be an effective tool in managing ethnic and regional conflicts? What is a legal framework for such intervention? What could be the most effective form of NATO involvement in peace support operations? - an objective of this paper is to analyze legal side of out-of-area operations and based on historical developments, precedents and trends, draw out a novel role of NATO in a new security architecture, established by a set of interlocking International organizations.

CHAPTER 1:
PEACE SUPPORT OPERATIONS AND USE OF FORCE IN THE INTERNATIONAL LAW [1]

Legal basis, History and Evolution of the Peace Support Operations

More than 150 years have passed since time, when peace support operations (PSOs) have been introduced as an effective instrument of foreign and security policy. First examples of such operations are intervention of joint Austrian, British and French naval forces in Lebanon in 1840 and 1860; joint mission, using land forces, police, administrative and judiciary elements, undertaken by all major European powers to pacify Crete; international naval operation, conducted in order to create and guard Albania in 1913; plebiscite in Schleswig, supported by British and French forces in 1920; plebiscite in German Saarland, supported by the British, Italian, Dutch, Swedish forces and Czech police in 1934-35, and etc.

However, peace support operations have gained real importance, legitimacy and institutional basis with the end of the Second World War, after the establishment of the United Nations.

From the legal prospective, concept of peacekeeping is not clearly defined in the UN Charter. Peacekeeping operations are practical mechanism devised to contain armed conflicts and facilitate their resolution by peaceful means. This mechanism was developed by the UN at the initial stage of the Cold War, because its original collective security and peace enforcement system, based on the authority of the Security Council and major power consensus, became unworkable as a result of the increasing disagreement between the two superpowers.

There is a wide spectrum of possible measures in the field of crisis-prevention and crisis-management, not all of which are foreseen by the UN Charter. Chapter VI is focused on existing disputes, and before having to consider the means available under that Chapter, the UN can resort to early warning systems, information gathering, fact-finding missions, humanitarian assistance programs and other forms of preventive diplomacy, none of which are mentioned in the Chapter. A number of these "pre-

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[1] *The views expressed in this research are those of the author and do not necessarily reflect the official policy or position of the Government of Georgia or any other organization. Information appearing in this paper may not be reprinted or used otherwise without permission of the author.*

chapter VI" measures can be initiated by the Secretary-General in accordance with Article 99 of the Charter, while others can be undertaken by the Security Council or the General Assembly under a less specific mandate.

Between the tasks of conflict prevention and peacekeeping lie the attempts of handling existing disputes by bringing disputing parties to agreement by peaceful means. As parties to the UN Charter, member states are under an obligation to resolve their disputes peacefully. Article 33 defines a number of dispute settlement methods from which parties can choose – negotiations, mediation, conciliation, arbitration, judicial settlement, resort to regional arrangements, or other peaceful means – states have to choose something in order to fulfill their obligation to settle the dispute. If the parties fail to settle in by the means indicated in Article 33, they are under an obligation to refer it to the Security Council. And if they fail to reach a peaceful solution, with a resulting armed conflict, they are under a customary law obligation to end the armed conflict as soon as possible, essentially through the methods and means described in Article 33.

Chapter VI gives a prominent role of the Security Council in seeking solutions to international disputes. The council shall, when it deems necessary, call upon the parties to settle their dispute by the means referred to in Article 33. The obligation of Article 33 would thereby be reinforced and the corresponding demand of the Security Council would be of no less binding a nature than Article 33 itself. The Council may also recommend appropriate procedures or methods of adjustment. If the Council deems that continuance of the dispute is likely to endanger the maintenance of international peace and security, it may recommend specific terms of settlement. In practice, however, only those means and methods of dispute settlement which are accepted by the parties have a chance of being successful.

Although Chapter VI contains legal obligations for states, its peacemaking strategy is based upon the consent of parties in dispute. This was the main base for what we now call "traditional peacekeeping" had prevailed. The traditional function of PKOs was to "support peacemaking efforts by helping to create conditions in which political negotiations can proceed". Obvious examples are the monitoring of cease-fires, the controlling of buffer-zones, and etc.

There are at least two sub-types of traditional PKOs: unarmed military observer groups, such as the United Nations Truce Supervision Organization (UNTSO) in the Middle East, and armed infantry-based forces with the task of controlling territory in

order to achieve effects conductive to peacemaking, e.g. the United Nations Peacekeeping Force in Cyprus (UNFICYP) and UNEF II with regard to the Suez Canal and Sinai.

The principles applied to the early UN peacekeeping operations may be summarized under six headings:

- **International character of the conflict** – the peacekeeping operations were normally set up to deal with conflicts of an international character, involving governments and had the backing of international community;

- **Consent** – the peacekeeping operations were based on consent. Their deployment in an area of conflict required the consent of the host government and the other main parties concerned. The principle of consent also applied to the troop-contributing governments, which have been supplying the required military personnel on a voluntary basis;

- **Impartiality** – UN peacekeepers sent to the area of conflict were obliged not to take sides in that conflict and support the interests of one of the parties against those of the other;

- **Non-use of force** – the UN peacekeepers were not authorized to use force except in self-defense. They had to act with restraint at all times and seek to carry out their mission by negotiation and suasion and not by coercion;

- **Role of the Secretary-General** – while peacekeeping operations had to be authorized by the Security Council (or exceptionally by the General Assembly) and operated by UN military command, they were always directed on a day-to-day basis by the Secretary General;

- **Multinationality** – the force was always multinational in composition, selected in consultation with the parties to the conflict and traditionally excluded troops from the permanent five member states of the security council.

Traditional peacekeeping operations were essentially non-violent and impartial. UN presence meant assistance to the parties to a conflict in preventing a recurrence of fighting when they had agreed to a cease-fire. Whether in a form of a military observer mission or as a peacekeeping force, their main tasks included monitoring cease-fires, supervising the withdrawal of occupation forces or manning buffer zones between enemy armies. Peacekeeping operations couldn't resolve the political problems as such, but, by stopping the fighting and stabilizing the situation in the conflict areas,

they created favorable conditions for political settlements by negotiation and other peaceful means. That was why, to the extend possible, they were combined with parallel political efforts. Indeed, the first peacekeeping operations were created to assist and facilitate the peace negotiating process, and this has remained their main objective.

With the end of the Cold War, the international situation has changed dramatically. This led to the revitalization of the Security Council and a revival of the UN peacekeeping activities. Within the next two years, in 1988 and 1989, five new peacekeeping operations were initiated by the Security Council. All those operations dealt with international conflicts on the basis of agreements negotiated by the parties concerned, under UN auspices with support of the two superpowers, and all of them were successful. The Nobel Peace Prize was awarded to UN peacekeeping forces in December 1988.

All those, as well as some other operations could be evaluated as a second generation of the peacekeeping with extended and more ambitious mandates. Operations have been set up to support the implementation of comprehensive agreements between the UN and/or the parties to a conflict. The new tasks of peacekeepers have included:

- Organizing and supervising free and fair elections (Namibia, Mozambique);
- Monitoring arms flows and demobilizing troops (Central America);
- Supervising government functions, rehabilitation of refugees and disarmament (Cambodia);
- Monitoring human rights obligations (El Salvador, Cambodia);
- Assisting in the delivery of humanitarian relief (former Yugoslavia, Somalia, Mozambique).

As it's clear, the scope of peacekeeping activities greatly increased. While most peacekeeping operations established during the Cold War had had mainly traditional peacekeeping tasks of a military character (such as the supervision of œase-fires or the control of demilitarized buffer zones), many new ones were multi-dimensional and combined traditional peacekeeping tasks with various activities of a political and/or humanitarian nature. And whereas the original traditional peacekeeping operations had been designed to contain international conflicts, the new ones were increasingly involved in internal conflicts within independent and sovereign states.

The proliferation of internal conflicts, combined with the revitalization of the Security Council, produced a further expansion of peacekeeping operations between 1991 and 1994. Seventeen new operations were established during that period. But this dramatic expansion created new problems. The United Nations became over-extended and remorsefully short of personnel, equipment and financial resources necessary to meet the growing demands of peacekeeping.

Even more serious, the traditional principles, laid down for peacekeeping operations involved in international conflicts, became inadequate when the UN was confronted with internal conflicts and civil war situations. Confronted with heavily armed internal factions, guerilla movements and irregular forces in some complex civil war situations, unarmed military observers or the lightly-armed UN troops, acting under the principles of consent and the non-use of force, could no longer carry out their peace mission.

In order to deal with this difficulty, at the initial stage the UN made attempts to change mandate of some peacekeeping operations in action – legally, if the mandates for enforcement are given under Chapter VII of the UN Charter, the operations by definition don't require the consent of the parties concerned. From the first look, this could solve mentioned problem upon dealing with intra-state types of conflicts.

However, such "mixed" operations and immediate change of mandate from peacekeeping to the peace-enforcement created new problems. Since Chapter VI is consent-based and Chapter VII is not, mixed operations run into difficulties due to the loss of impartiality – an essential requirement for obtaining the co-operation of the parties to a conflict. As a result, UN peacekeeping forces were not able to prevent and stop tragedies in Bosnia and Somalia.

This does not mean that enforcement measures in support of humanitarian objectives, or to protect the mission and its personnel should be avoided. But such action has to be conducted as a separate Chapter VII operation in order not to risk the lives of peacekeepers who, as a rule, are not equipped or otherwise prepared to deal with a situation that escalates into violent conflict. Mixed operations are only advisable if, at the time of establishing the peacekeeping operation, peace-enforcement needs were foreseen and a decision was taken to grant the force commander the necessary military resources. But even so, the original purpose of the PKO – to initiate a process

of cooperation through peaceful measures – would have to be abandoned. The introduction of enforcement measures would create a new situation, and the efforts of peacemakers would probably have to be started from scratch.

It the early 1990s there was a clear trend from peacekeeping to the peace-enforcement. But soon the UN and its member states became too cautious and selective with regard to collective action. The trend was reserved and regional action has taken over completely. This explicit shift towards the regional approach coincided in time with another major trend, which has affected the entire system of the international security and law, and which was called the "humanitarian intervention".

As it's well known, according to the Article 2(7) of the Charter, intervention in domestic affairs by the United Nations is prohibited, unless there is a Chapter VII situation. By defining unlawful intervention, the Charter has also defined what is permitted intervention.

Recent interpretations and applications of Chapter VII symbolize much of the dynamic nature of the UN Charter. The door-gate to the Chapter VII and the enforcement action, Article 39, has been widened due to the flexible interpretation of the concept of "threat to international peace and security". This crucial concept has in the practice of the Security Council included internal persecutions of the minorities with "spill over" security risks for neighboring countries (Resolution 688 on Northern Iraq), humanitarian crisis in failed states (Resolution 794 on Somalia), and humanitarian/democratic crises in almost failed states (Resolution 940 on Haiti). As a consequence of this flexible interpretation of Article 39, the exception to be found in Article 2(7) of the Charter, only admitting UN intervention in the domestic affairs of States after a Chapter VII decision, has been widened.

Similarly, the subsequent articles of Chapter VII (mainly articles 42-48) have been interpreted in a loose and dynamic fashion, in order to facilitate peace-enforcement or collective self-defense. Resolution 678 authorizing the use of force during the Gulf War was not up to the strict standards of the Article 42 (no centralized UN command, no UN leadership, no accountability), but on the other hand, a rapid liberation of Kuwait became possible in accordance with the overarching collective security purposes of the UN Charter.

The difficult thing with an international intervention in support of humanitarian objectives ("humanitarian intervention") is that it is actually related to three areas of international law:

It is related to the law on the use of force, because Article 2(4) of the UN Charter prohibits unilateral or multilateral force which is not in self-defense or sanctioned by the Security-Council;

It is related to the law on the human rights, because Articles 55-56 of the UN Charter oblige UN member states to co-operate in the protection of the human rights;

It is related to the law on collective security, because Chapter VII of the UN Charter permits collective enforcement action (including humanitarian intervention) when there is a threat to international peace and security, as defined by the Security Council.

In this regard, it is important to note the precedents established by the Security Council Resolution 794 authorizing "Operation Restore Hope" in Somalia, the follow-up Resolution 814 establishing UNOSOM II, and the various humanitarian enforcement mandates given to UNPROFOR in Bosnia during 1992 and 1993. The more shaky precedent of Resolution 688 leading to "Operation Provide Comfort" in Northern Iraq could be also mentioned. In this case no enforcement was authorized, although the repression of Kurds was seen as a threat to international peace and security.

During the Cold War, justifications for intervention were not credible as they were put forward unilaterally by either one of the two superpowers (for example, the invasion of Czechoslovakia in 1968 or the intervention in Grenada in 1983).

After the Cold War, the collective dimension has made justifications more credible. Even if two members of the permanent five (P5) in the Security Council are generally against any kind of intervention eroding national sovereignty, UN authorized humanitarian intervention should, as a matter of principle, not be excluded as a standing option for the Security Council.

The Commission on Global Governance, co-chaired by the former Swedish Prime-Minister, Ingvar Carlsson and the Guyanan former Secretary-General of the Commonwealth, Shridath Ramphal, suggested in its Report of 1995 that the mandate for humanitarian intervention should be clearly stated in the Charter, which had to be amended in order not to widen the existing provisions through politically sensitive interpretations. The Commission thus proposed an amendment, permitting such intervention but restricting it to cases that constitute a violation of the security of people so gross and extreme that it requires an international response on humanitarian grounds. The proposal on Charter amendment merits serious consideration, although

many would argue that the political difficulties involved in such a formal approach would be overwhelming and that it would be better to rely on a development through state practice.

With concepts like collective security and common security, international law had so far been too much centered around the security of states. Now it may be time for the world community to accept a concept of security of people, focusing on the situation of individuals and their possibilities of asking international bodies for help to protect their human rights against domestic threats of gross deprivation.

Legal basis for NATO's Involvement in the Peace Support Operations

a) The Washington Treaty

The legal basis for NATO operations is the 1949 Washington Treaty (WT). But if it is carefully examined, the Treaty don't refer neither to Peace Support Operations, nor indeed to any out-of-area operations, and only offers geographical guidance in the context of Article 5 operations. So we can't derive a legal basis neither for NATO PSOs, nor for where they may take place, from the Treaty. Indeed, the NATO Treaty itself only speaks in geographical terms in Article 6, which is an elaboration of Article 5, and defines what is meant by an attack on one or more of the NATO Allies in Europe or North America. The NATO area, i.e. the area, which NATO would defend, is clearly defined in Article 6 as "the territory of any of the Parties in Europe or North America, tile Algerian Departments of France, the Occupation forces of any party in Europe, the islands under the jurisdiction of any party in the North Atlantic area north of the Tropic of Cancer, or the vessels or aircraft in this area of any of the Parties".

In practice, up until Kosovo, the question of the legality of NATO's involvement in PSOs did not arise. The only NATO Peace Support Operation was Bosnia, in which NATO's actions had been specifically covered by UNSCR mandate. In the case of Kosovo, NATO governments recognized that they would not succeed in obtaining an explicit UNSCR mandate for military action against the Federal Republic of Yugoslavia. But they argued that taking military action should not be based only on strict questions of legality but on the question of whether it would be legitimate.

The Oxford Shorter English Dictionary defines legitimacy as "a justification able to be defended by logic or conforming to law or rules". In the case of Kosovo, NATO Allies claimed a legal and legitimate right to act derived from two earlier UNSCRs (1199 and 1203) and from the fact that their action would be in line with internationally accepted texts on human and civil rights (as defined in e.g. the UN Universal Declaration on Human Rights, and OSCE and Council of Europe texts). The strength of conviction as the justness of the cause was underlined by the fact that the NATO consensus of nineteen nations held throughout the course of the two-month military campaign.

The discussion within NATO on the legal basis for PSOs takes place against the backdrop of a debate within the United Nations on the basis for humanitarian intervention where governments commit deliberate and flagrant human rights abuses against their own people. UN Secretary General Kofi Annan said in autumn 1999 that the Security Council needs to be seen as "the defender of the common interest", and member states need to "think anew about how the United Nations responds to political, human rights and humanitarian crises".

Nonetheless, some Allies were very uncomfortable with the notion that NATO carried out the Kosovo operation without an explicit UN mandate. This opened up an ongoing debate within NATO about basis on which it could become involved in PSOs.

While the NATO Treaty makes no mention of Peace Support Operations (PSOs) or Crisis Respond Operations (CROs - the term only came into common use in the NATO context after 1991), there are extensive passages on CROs in both the 1991 and 1999 Strategic Concepts.

b) The 1991 Strategic Concept

By the end of the 1991 year, in November, NATO had completed its new Strategic Concept. In the time that had passed since the first step was taken at the London Summit in 1990, NATO had experienced German unification, the Gulf War and the dissolution of the Warsaw Pact. If NATO were to avoid appearing outdated in relation to recent international developments these changes would have to be reflected in its new policy statement.

The review of NATO's strategy was a thorough three-track bureaucratic process which involved both civilian and military staffs. Three separate documents

were produced: a political declaration drawn up by the NATO ambassadors, the new Strategic Concept negotiated by the International Staff's Strategy Review Group, and the Directive for the military implementation of the Strategic Concept' prepared by the permanent military delegations, the International Military Staff and SHAPE. Despite these complex and time-consuming procedures, the bulk of the Strategic Concept was negotiated by ministers at the North Atlantic Council meeting in November.

Four main issues were discussed by all the strategy groups: (1) the development of a European pillar within NATO and the role of the Western European Union (WEU); (2) relations with former Warsaw Pact countries; (3) the question of how much attention should be focused on the Soviet Union; and (4) NATO's role for out-of-area challenges. However, the November summit started without consensus, as NATO's permanent staff and bureaucracy had been unable to reach agreement. The following summit declaration was the first of many statements to reflect NATO's difficulties in agreeing on common formulations with regard to how the changes in its perceived threat were to be handled. Vague formulations which allowed for different interpretations papered over disagreements with regard to the future aims and tasks of the Alliance.

Discussions were also complicated by the continued, rapid changes in the strategic environment in Europe, the most important probably being the attempted coup in Moscow in August 1991, which contributed to a continued focus on the East. Consequently, at the summit, most of the allies had not yet developed a concrete picture of NATO's future role. Despite numerous references to the promising new age of Europe, the definition of NATO's core functions, as listed in paragraph 21 in the new Strategic Concept, was rather conservative. NATO's core functions were:

To provide one of the indispensable foundations for a stable security environment in Europe, based on the growth of democratic institutions and the commitment to the peaceful resolution of disputes, in which no country would be able to intimidate or coerce any European nation or to impose hegemony through the threat or use of force.

To serve, as provided for in Article 4 of the North Atlantic Treaty as a transatlantic forum for Allied consultations on any issues that affect their vital allied interests, including possible developments posing risks for members security and for appropriate co-ordination of efforts infields of common concern.

To deter and defend against any threat of aggression against the territory of

any NATO member state.

To preserve the strategic balance in Europe.

The main emphasis remained on NATO's traditional role (Article 5 operations and strategic deterrence of the Soviet Union) as reflected in point III and IV. The carefully selected wording in point II, which was the only reference to the new threats, left all options open, but 'consultation' and 'co-ordination' on issues of common concern was really nothing new. The explicit reference to Article 4 of the North Atlantic Charter also underlined continuity rather than change. The strongest formulation was found in a separate chapter on Management of crisis and conflict prevention, in which it was stated that "The success of Alliance policy will require a coherent approach determined by the Alliance's political authorities choosing and coordinating appropriate crisis management measures as required from a range of political and other measures, including those in the military field".

The 1991 text speaks of the potential for instability in central and eastern Europe, which could lead to "crises inimical to European stability and even to armed conflicts, which could involve outside powers or spill over into NATO countries, having a direct effect on the security of the Alliance" (§ 10) and makes clear that NATO'S prime reason for involvement in peace support operations is a defensive one, to safeguard peace and stability in Europe (§ 42 and 43).

But the area in which NATO may choose to act is not defined. In saying that "Alliance security interests can be affected by other risks of a wider nature, including proliferation of weapons of mass destruction, disruption of the flow of vital resources and actions of terrorism and sabotage" (§ 13), the 1991 Strategic Concept asserts that NATO has a locus to act beyond that area set out in articles 5 and 6 of the Washington Treaty.

The different positions on NATO's future role for out-of area operations were obvious and predictable. France and Spain were opposed to an expanded role for NATO, and advocated a greater role for the Western European Union (WEU). Smaller members still feared that NATO's core functions would be weakened by an expansion of the scope. In Germany, the use of German forces outside the NATO area was a political non-issue. In fact, the United States and Britain were the only countries eager to discuss an expansion of NATO's role. A compromise was found in a concept which had been introduced earlier that year. During the Gulf crisis in 1991, passive solidarity

had been launched as a possible approach to out-of-area conflicts. This entailed that allies operating out-of-area could make use of NATO facilities such as infrastructure, collective equipment and coordinating procedures. General Vigleik Eide, chairman of NATO's Military Committee at the time, had publicly highlighted allied contributions to the international coalition in areas such as logistics and material." Passive solidarity implied a small step forward in relation to Cold War out-of-area policy, but not a radical change. In many ways it simply formalized an already agreed policy. However, despite vague references to phrases like "crisis management" and "conflict prevention" in connection with incidents that could develop into a direct threat, NATO would continue to be a collective defense organization and the justification for its existence was, to a large extent, the threat posed by the Soviet Union.

However, the immediate collapse of the Soviet Union and the escalating war in Yugoslavia made NATO's new Strategic Concept more or less out outdated less than a year after its inception. Even though the new Concept opened up for "appropriate co-ordination of efforts in fields of common concern", no directions were given with regard to what this really entailed. Therefore, when NATO declared its willingness to support the UN and the OSCE on a case-by-case basis in June 1992, NATO took its first step into a new out-of-area role. The fact that this decision had not been made half a year earlier in connection with the formulation of the new Strategic Concept, clearly indicated that NATO's new out-of-area policy was a result of the events of the day rather than conscious choice based on a longer time perspective.

c) The 1999 Strategic Concept

The 1999 Strategic Concept refers extensively to crisis management, reflecting the reality that this has been NATO's most significant operational activity post-1990. Crisis management is defined as one of the fundamental security tasks of the Alliance (§ 10), and "the Alliance's preparedness to carry out such operations supports he broader objective of reinforcing and extending stability" (§ 31). So again, the new Strategic Concept emphasizes that the chief benefit to NATO of involvement in crisis management is primarily defensive, to safeguard peace and stability in Europe, thereby ensuring the security of NATO member states — in other words, to paraphrase Clausewitz, an added mixture to collective defense "by other means".

The 1999 Strategic Concept was written in the light of changes to NATO's

role since 1991, and deserves close examination, it also presents a perspective for a changed NATO. The New Strategic Concept is the result of a compromise on differing visions of NATO's role, but its scope has alarmed some NATO counties who consider that they are not bound, in a strict legal sense, by the document as they would be by a treaty.

The 1999 Strategic Concept, like its precursor, focuses on the changed nature of the threat to NATO. And it emphasizes that the defense of Alliance security must now go beyond Articles 6 and 5 of the Washington Treaty (§ 24) because of the emergence of complex new risks to Euro-Atlantic peace and stability (§ 3). The 1991 Strategic Concept says that the main danger to Alliance security emanates from conflict within Europe, but its successor contains no such sentence.

On the contrary, the Strategic Concept describes the Alliance as "subject to a wide variety of military and non-military risks" (§ 20). These include "uncertainty and instability in and around the Euro-Atlantic area and the possibility of regional crises at the periphery of the Alliance … [which could take the form of] ethnic and religious rivalries, territorial disputes, inadequate or failed efforts at reform, the abuse of human rights and the dissolution of states … [which] could lead to crises affecting Euro-Atlantic stability".

This is the first time that an Alliance document endorsed by all Member States makes reference to the "Euro-Atlantic area". It is a new concept of area for NATO. Following the definition of the NATO area in the Treaty, and the notion of "out-of-area" (i.e. out of the treaty area), we now have not only the Euro-Atlantic area but also its periphery ("around the Euro-Atlantic area").

Yet although the 1999 Strategic Concept ascribes particular significance to the Euro-Atlantic area, there is no clear definition as to what this comprises. It is obviously bigger than the territory of NATO members, but whether it goes as wide as the OSCE definition of that same area as "from Vancouver to Vladivostok" is not specified.

It could be argued that NATO's definition of "Euro-Atlantic area" has been kept deliberately vague in order not to limit the way in which the Alliance may at a future date choose to defend that area and periphery. One reason for this can be deduced from the Concepts description of the range of threats, which face NATO. The Strategic Concept lists a range of threats which may "affect" the Alliance, threats which could emanate from anywhere in the world (threats from nuclear forces, NBC and conventional weapons proliferation and risks of a wider nature, including

terrorism, sabotage and organized crime, and by the disruption and flow of vital resources). As §25 underlines, "the Alliance is committed to a broad approach to security, which recognizes the importance of political, economic, social and environmental factors in addition to the indispensable defense dimension".

The implication of the 1999 Strategic Concept is that NATO nations have an interest in all areas from which these threats might emanate. But because of their very broad nature it is easier to define these threats in a generic rather than a geographic way.

It is therefore reasonable to conclude from the Treaty and the 1991 and 1999 Strategic Concepts that the geographical question has been left open and ambiguous. The divergence of views appears to be reflected in the absence of any official reference to this question.

d) Prague Summit: Adapting to the Threat of Terrorism

Next step in developing more comprehensive legal basis and flexible strategic framework for NATO's capabilities in addressing modern threats was made at Alliance's Prague Summit in November 2002. While NATO's contribution to the fight against terrorism has already been significant by that moment, efforts had been targeted to better equip the Alliance and to allow it to play its full part in the long-term effort.

At NATO's Prague Summit on 21-22 November 2002, Heads of State and Government of NATO member countries adopted a package of measures that will strengthen NATO's preparedness and ability to take on the full spectrum of security challenges, including through the means of the out-of-area operations.

Recalling the tragic events of 11 September 2001 and their subsequent decision to invoke Article 5 of the Washington Treaty, Heads of State and Government of NATO member countries have approved a comprehensive package of measures, based on NATO's Strategic Concept, to strengthen an ability to meet the challenges to the security of NATO's forces, populations and territory, from wherever they may come. Summit's decisions provide for balanced and effective capabilities within the Alliance so that NATO is able to better carry out the full range of its missions and respond collectively to those challenges, including the threat posed by terrorism and by the proliferation of weapons of mass destruction and their means of delivery.

These measures served as a demonstration of Allies determination to protect their populations, territory and forces from any armed attack, including terrorist attack, directed from abroad. At the same time, it was clearly understood, that in order to carry out the full range of its missions, NATO must be able to field forces that can move quickly to wherever they are needed, upon decision by the North Atlantic Council, to sustain operations over distance and time, including in an environment where they might be faced with nuclear, biological and chemical threats, and to achieve their objectives. Therefore, several new initiatives had been approved:

NATO Response Force: out of the Prague Summit came a decision to establish a NATO Response Force (NRF), which promises to provide the Alliance the ability to quickly deploy a force that is capable of executing the full range of missions NATO may be called upon to carry out. If the NRF is implemented according to the standards that the U.S. has proposed, the NRF will be lethal, technically superior to any envisioned threat, and readily deployable on short notice. The goal for initial operational capability for training is October 2004, with full operational capability proposed by October 2006. The NRF, we expect, will become the focal point of NATO transformation efforts to meet new threats facing the Alliance, first of all, from outside the NATO territorial boundaries.

Prague Capabilities Commitment: in which the allies promised to address long-standing shortfalls in areas such as communications, strategic lift, nuclear, biological and chemical defense equipment, and precision-guided munitions. In short, the European allies agreed to pool their resources, spend smarter, and pursue specialization. Allied contributions to NRF rotations must possess the critical capabilities targeted by the Prague Capabilities Commitment if the NRF is to evolve beyond a concept.

Streamlined Command Structure: it will reduce operational commands from 23 to 16 commands to ensure a more efficient use of financial and manpower resources. It will also provide NATO commanders with more mobile, joint and interoperable headquarters - critical to 21st century military operations, including out-of-area missions. The establishment of a new functional command, Allied Command Transformation in Norfolk, Virginia, will provide a new vehicle to drive military transformation across the Alliance.

Military Concept for Defense Against Terrorism: the concept is part of a package of measures to strengthen NATO's capabilities in this area, which also

includes improved intelligence sharing and crisis response arrangements. Terrorism, which Allies categorically rejected and condemned in all its forms and manifestations, was considered as a grave and growing threat to Alliance populations, forces and territory, as well as to international security.

Another important commitment undertook at the Prague Summit was to further promote peace and stability in the Euro-Atlantic Area. To meet this objective, NATO decided to continue to develop its "fruitful and close" cooperation with the OSCE, namely in the complementary areas of conflict prevention, crisis management and post-conflict rehabilitation.

The Allies also confirmed NATO's vital role in restoring a secure environment in South-East Europe. They reaffirmed their support for the territorial integrity and sovereignty of all the countries in this strategically important region and commitment to work with their partners in SFOR and KFOR, the United Nations, the European Union, the OSCE and other international organizations, to help build a peaceful, stable and democratic South-East Europe. Therefore, Allies once again positively assessed and approved their earlier out-of-area missions in this region.

To sum up, Prague Summit demonstrated that European and North American Allies, already united by history and common values, will remain a community determined and able to defend their territory, populations and forces against all threats and challenges, wherever they come from, including territories outside the NATO boundaries and even the broader Euro-Atlantic area. This means, that NATO has begun to move away from its original focus on Europe and recognize that the threats facing the Alliance are more and more diverse and geographically distant. This shift in emphasis was explicitly acknowledged in the communiqué issued in Prague, noting that NATO needs to have the capability to field forces that can move quickly "to wherever they are needed" and sustain operations over great distance, including in an environment where they might be faced with biological, chemical and nuclear weapons. This change essentially ends the "out-of-area" debate that has raged within the Alliance in the last few years.

CHAPTER 2:
NATO AND PEACE SUPPORT OPERATIONS

NATO's Out-of-Area Operations During the Cold War

The history of NATO out-of-area disputes provides us with uncommonly clear and indisputable lessons. The most important of these is that NATO governments have never permitted disagreements over issues beyond the NATO Treaty area to jeopardize the alliance. From time to time, allies have been encouraged by the rhetoric of "common security interests and Atlantic Community" to use the NATO forum to solicit allied support for policies that they are pursuing beyond NATO's borders. On other occasions, allies have taken advantage of the NATO framework to meddle in the extra-European affairs of other NATO members. These actions have frequently resulted in intense, recriminatory disputes within NATO. But the disputes have never spun out of control. This is because all parties have maintained a clear sense of priority in their security calculations: the survival and the efficient functioning of NATO has always mattered more to these governments than the specific out-of-area situation.

When NATO was established in 1949, the USA extended its security umbrella - including its fledgling nuclear capability - over the nations of Western Europe at a time when those nations were incapable of separately or collectively resisting the threat posed by the Soviet Union. Not surprisingly under these circumstances, the United States had the largest say during the discussions about the nature and identity of the new alliance system. It is a credit to American foresight, however, and to America's commitment to democratic values, that the US delegation to the Washington Preparatory Talks took the interests and concerns of Canada and key West European governments into consideration when it formulated the NATO Treaty. The compromise nature of the final product is reflected in the tension between Article 6 and Article 4 of the Treaty. Article 6 specifically designates Europe, North America and the North Atlantic as NATO's area of responsibility. Washington strongly favored a geographically limited alliance so that it could pursue its extra-European interests without the interference of junior allies, and so that it would not be drawn into the overseas adventures of these Junior allies. Article 4, on the other hand, commits all signatory governments to "consult together whenever, in the opinion of any of them, the territorial integrity, independence or security of any of the Parties is threatened."

There is no geographical limitation to the consultation clause. Washington was willing to accept Article 4 because it reassured key allies that their extra-European concerns could be raised within NATO and because it committed all parties to nothing more than consultation.

At the core of American concern about NATO's boundaries was a fundamental disdain toward those European governments that were trying to hang onto the vestiges of empire after World War II. Post-war American anticolonialism did not have the intensity or the theoretical coherence that Franklin Roosevelt had brought to the topic. But most post-war policy makers nonetheless shared suspicion that the European imperial powers could not be trusted to manage the affairs of the Third World. For their part, these European governments viewed the reestablishment of control over former territories as a right, which had been confirmed by their victory in the war against fascism. All parties understood that NATO would be one of the forums within which this incipient disagreement would be played out.

The tension between American anticolonialism and European globalism set the stage for the next two decades of out-of-area disagreements within NATO. Of the 13 out-of-area disputes which surfaced between 1949 and 1968, the United States demonstrated its opposition to European extra-regional policies in all but two cases. The two exceptions were the Korean War (1950-53) and the Laos crisis (1959-62). In the other 11 instances the United States either rejected allied solicitations of support for extra-European contingencies or used the NATO forum to communicate its dissatisfaction with particular allied policies in the Third World.

Various factions within the U.S. policy making community were sensitive to these arguments during the cold war, and these factions did have a restraining influence in discussions about the problems posed by European imperialism. For the most part, however, the logic of anti-Communist containment actually worked against the interests of those European governments that were trying to preserve the "confetti of empire". U.S. policy makers (particularly within the Joint Chiefs and the NSC) argued that the anti-Soviet struggle in the Third World was too important to be trusted to the European allies. They warned that these governments were too preoccupied with their narrowly defined national interests. More to the point, they warned that these governments did not have the military strength or the political will which would be required to hang on indefinitely in the Third World. Under these circumstances, European-controlled territories were viewed by Washington more as liabilities than

assets.

The depth and scope of US-European disagreement finally became clear to all parties in 1956, when Britain, France and Israel invaded Egypt. For the European allies, the issue went beyond guaranteeing unrestricted access to the Suez Canal. Nasser's nationalization of the canal was a test of British and French resolve and commitment to protect the elements of their respective empires anywhere in the world. Washington understood the interests and concerns which led Paris and London to invade Suez. But the United States also believed that a military solution to the crisis would fuel anticolonialism throughout the Third World and provide new opportunities for Soviet aggression and infiltration. Other NATO allies also criticized the Franco-British operation in Suez, on the grounds that it diverted Western attention away from Central Europe at a time when the Soviets were brutally suppressing an uprising in Hungary. West Germany was particularly concerned about the risks of spillover from the Hungarian crisis while NATO was looking south. Driven by its own sense of betrayal, and encouraged by the majority of NATO allies, Washington moved quickly and effectively to compel Paris and London to stop the invasion.

In the wake of the Suez Crisis, NATO convened a "Committee of Three on Non-Military Cooperation" (the so-called "Three Wise Men") to consider ways of avoiding similar problems in the future. To no one's surprise, the committee recommended that the allies consult more closely on out-of-area problems ". . .before national positions become fixed". But neither Britain nor France, nor for that matter the United States, were very comfortable with this recommendation. As all three governments made clear at the time, NATO could not be permitted to make extra-European policies for its sovereign members, and even the act of early and comprehensive consultation may at times be too constraining on allied governments. French Prime Minister Guy Mollet provided the most telling riposte to the committee's recommendation when he was asked why he had not at least informed the United States in advance of military action in Suez: ". ..we were afraid that if we let you know you would have prevented us doing it - and that we could not agree to, you see."

In retrospect, Suez had a very positive, cautionary effect upon NATO. It demonstrated conclusively that there were fundamental differences of interest between the United States and key European allies on questions relating to security beyond the NATO Treaty area; differences which could not be finessed by appeals to "common security interests." On the other hand, the crisis confirmed that even intense

disagreements about extra-European issues were not strong enough to undermine the NATO contract. All parties came away from Suez chastened, and with a better understanding of where out-of-area problems fit in the broader scheme of things.

This appreciation of the rules of the game endured for about a decade. By the late 1960s, however, the United States was beginning to reassess the wisdom of its policy of strict construction of Article 6 of the NATO Treaty. Two factors contributed to this reassessment. The first, and most important factor was the Vietnam War, which led to the draw-down of U.S. forces in Europe and came increasingly to look like an unsolvable problem. The second, related factor was the growing preoccupation of the Nixon-Kissinger team with the issue of American decline. Concern about the long-term danger of military and economic overdraft led Nixon and Kissinger to reconsider the issue of alliance burden sharing in general, and out-of-area cooperation in particular.

By the early 1970s the transformation of the American position on the issue of out-of-area cooperation was complete. Washington was fully on board in support of a more elastic interpretation of the concept of "common security interests," and pressing the allies to accept a larger share of the economic and social costs of preserving and enhancing NATO. Ironically, by this time most of the European imperial powers had perforce been relieved of their extra-regional responsibilities, and it was with something approaching glee that they rebuffed U.S. solicitations of support for out-of-area contingencies.

Once again, the Middle East provided the test of how the situation had changed within NATO. When U.S. aircraft, engaged in the resupply of Israel during the 1973 Yom Kippur War, were refused base access and overflight rights by most NATO allies (the Netherlands and Portugal were the exceptions), Kissinger was incensed. He attacked the allies for behaving "like clever lawyers" who were using Article 6 of the NATO Treaty to avoid taking responsibility for the security of the Middle East region. The Europeans, meanwhile, rejected Nixon's claim that the resupply effort "is just as much in the vital interest of West Germany and the other NATO allies as it is in our interest." They also expressed alarm and outrage when Washington declared a worldwide military alert in order to deter the Soviet Union from increasing its support for the Arab nations involved in the Middle East war. The action was taken without any consultation with the NATO allies, and Kissinger's subsequent explanation for this unilateral action bears a striking similarity to Mollet's rationale for avoiding consultations in 1956: "...to be frank, we could not have accepted a judgment

different from our own."

Just as the Suez Crisis clarified for all parties the limits of NATO out-of-area cooperation for the first half of the alliance's history, the Yom Kippur War helped all parties to understand the basic rules of the game for the second 20 years of NATO's existence. The first two decades of NATO's history are characterized by unsuccessful European solicitations of American help and European expressions of resentment about American meddling in their sovereign colonial affairs. By contrast, the second 20 years are characterized by frustrated American solicitations of out-of-area help from the European allies under the general rubric of burden sharing.

It is worth reiterating, however, that in neither of these two historical periods have the allies permitted out-of-area disputes to get out of control and threaten NATO's survival. It is also worth mentioning that intra-alliance recriminations over out-of-area issues declined in intensity during the 1980s, and that key European governments were demonstrating a greater willingness to assist the United States in selected overseas contingencies by the late 1980s.

Indeed, the modest improvement in NATO out-of-area consultation and cooperation during the late 1980s is at least partly attributable to the concern on the part of all members that the alliance was becoming more and more vulnerable to disruption as a result of extra-regional challenges, at a time when NATO's mission was still not accomplished. Fortunately, the Alliance managed to avoid such threat throughout a set of out-of-area crisis, emerged immediately following the end of the Cold War and dissolution of the Soviet Union.

NATO's Test in the Persian Gulf: Cold War Period and the First Military Campaign

Issue of stability and desired balance of interests in the Persian Gulf has being on the agenda for almost half of a century. First time NATO's collective interest in preserving order in the Persian Gulf region was tested by Iraqi dictator Abdul Karim Qassim during the summer of 1961, who seemed poised to invade neighboring Kuwait less than one week after Britain granted Kuwait independence. Since London had signed a bilateral defense treaty with the Amir of Kuwait, and relied upon the small Gulf nation for 40 percent of its crude oil, British forces were quick to respond: they

were able to place the first contingent of Royal Marine Commandos in Kuwait within 24 hours after receiving a request for help on June 30. Within a matter of days, a British force of nearly 6,000 troops, backed by a task force of 45 warships deployed from as far away as Hong Kong and Singapore, and aircraft armed with both conventional and nuclear weapons, was in the Gulf region. London's deterrence strategy succeeded, and, by July 14, Britain was able to begin to gradually scale down its military contingent and turn over responsibility for Kuwaiti security to an Arab League force composed of Egyptian, Sudanese, Jordanian, Saudi and Kuwaiti troops.

Britain did not solicit NATO military assistance for its actions in defense of Kuwait and, for the most part, its allies were content to let London handle the issue. The crisis nonetheless caused some problems within the US-UK "special relationship." The Kennedy Administration, which had come to office seven .months earlier with a pledge to "get on the right side of change" in the Third World, was anxious to avoid guilt by association with British interventionism in the Middle East region. Washington was also concerned about the fact that Britain had to remove forces from NATO's central front at a time when East-West tensions were escalating over Berlin. Finally, Kennedy was disturbed by the possibility that Britain would have to use the nuclear assets that it had deployed to the Gulf region in the event of an intense military confrontation with Iraq. This last consideration helped to convince Kennedy to oppose the development of an independent British nuclear force. For Britain, the satisfaction of having accomplished an impressive military operation in the Gulf was dampened by the realization that it was becoming increasingly harder for London to accomplish such feats, and increasingly likely that it would continue to be challenged in the Third World unless it retrenched.

Second time, Kuwait resurfaced as a Western security issue 25 years after the British terminated "Operation Beliringer" in the Persian Gulf. In the winter of 1986-87, Kuwaiti oil tankers came under attack from Iran because of Kuwaiti assistance to Baghdad during the Iran-Iraq War. By this time, Britain's "long recessional" from East of Suez was complete, and Washington had supplanted London as the principal guarantor of Gulf security. Kuwait approached the US Administration with an offer to re-flag Kuwaiti tankers under American registry as a means of obtaining U.S. naval protection in the Gulf. When it became known that the Kuwaitis were offering the same deal to Moscow, the United States agreed to the ref lagging proposal. By the

spring of 1987, U.S. naval vessels were patrolling the Gulf, as a unilateral action.

Ironically, it was not an Iranian attack, but rather the Iraqi attack on the U.S.S. Stark which convinced Washington to seek allied help in the Gulf. After about three months of haggling, key European governments began to deploy naval forces to the region, to protect civilian shipping and remove mines from the Gulf. It is relevant to this study, however, that Washington never made a formal request to NATO per se, and that the European governments which chose to contribute to the Gulf armada did so on a unilateral basis, while coordinating their policies under the auspices of the Western European Union (WEU) rather than under the aegis of NATO.

American and European naval units completed their mine clearing and patrol duties in the Gulf in 1989, but by August of the following year the United States was once again discussing a pressing Persian Gulf security issue with its European allies.

The major crises took place on August 2, 1990, when Iraq accomplished its historic goal of annexing Kuwait, by means of a brutally efficient blitzkrieg. The invasion elicited an almost universal condemnation from the world community. As the strongest nation in the international system, the United States felt a special responsibility to respond to Saddam's aggression. But Washington also understood that it was essential that the situation not devolve into a bilateral confrontation between America and Iraq. Washington moved quickly, therefore, to help raise the issue of the invasion of Kuwait in the United Nations, and within NATO.

The circumstances surrounding the Iraqi invasion of Kuwait were almost ideal from the point of view of anyone wishing to encourage NATO to play a military role beyond the established Treaty area:

- The issue was of direct strategic relevance to all NATO members because of the threat which Saddam posed to the world oil market. From the start of the crisis all NATO allies also recognized an interest in the preservation of peace and stability throughout the Middle East region.

- As the first post-cold war crisis, it did not involve the risk of confrontation with the Soviet Union. Indeed, Moscow made it clear that it was on board in support of all 12 UN Security Council resolutions against Iraq.

- The aggression against Kuwait was so blatant and grotesque that it galvanized the International community and resulted in both global (UN) and regional (Arab League) condemnation of Baghdad's action. Thus NATO governments did not

face the prospect of being isolated in the world community if they took strong action against Iraq.

- The United States made it clear in the early stages of the crisis that it was willing and able to bear most of the costs for any action taken against Saddam, as long as it could rely upon its allies for strong political backing, reasonable financial and logistical support, and whatever level of military assistance the separate NATO governments wished to contribute.

Encouraged by these very positive circumstances, the NATO Council of Ministers was able to act in unison to condemn Iraq's invasion of Kuwait and call for an international embargo against Baghdad. This display of allied political solidarity in turn convinced various Western experts and policy makers that the time had finally come for NATO to transcend its artificial boundaries. NATO Commander General John Galvin argued that the crisis in the Gulf demonstrated that NATO should adopt a new "fire brigade" strategy designed to facilitate rapid deployment beyond the existing NATO Treaty area. And, in late November, British Defense Secretary Tom King advised the North Atlantic Assembly that the Kuwait crisis illustrated the need "either to amend the North Atlantic Treaty or adopt a more flexible interpretation of the existing Treaty to reflect changing security conditions and to facilitate NATO as a collective entity to respond to threats outside of the area."

Washington was gratified by the way in which NATO reacted to the crisis in the Gulf. The Atlantic Alliance was the first international organization to act, by expressing its strong and unanimous opposition to Saddam's action. USA turned instinctively to its NATO allies to help hold the coalition together. Since the issues at stake in the Gulf were recognized by all of the allies as common security interests, the United States continued to receive unanimous political support within NATO for its stand against Iraq. Some Western experts and policy makers were so impressed by this demonstration of alliance solidarity that they presented the Kuwait crisis as an opportunity to expand NATO's boundaries, either informally (by disregarding the geographic constraints imposed by Article 6 of the Treaty) or formally (by revising the Treaty to permit NATO to deal with extra-European security threats).

But the individuals who depicted the Kuwait crisis as a model for future NATO out-of-area cooperation gave insufficient attention the problems that were just below the surface. While preserving the common front of opposition to Saddam's aggression, NATO members made it clear during bilateral and multilateral meetings

that they held some important differences of opinion about what should be done in the Gulf, and who should do it. In September, NATO Secretary General Manfred Worner stated that there was a "unanimous conviction that still more can and should be done" by Washington's allies to assist the United States in Operation Desert Shield. But with the exception of Britain and, to a lesser extent, France, Washington continued to be disappointed by the level of direct military support provided by the European allies.

Key European allies also began to express differences with the United States over the question of how much diplomacy was required before the Western community opted for war in the Gulf. For example, President George Bush and German Chancellor Helmut Kohl were clearly speaking from two different texts during Bush's visit to Germany in November. Kohl's frequent references to the "wish that negotiations would lead to a peaceful outcome" discomfited the American President, who had only recently opted for a massive increase in the size of the U.S. Gulf force in support of an offensive strategy against Iraq.

Saddam Hussein actively encouraged these fissiparous pressures within NATO and in the larger international coalition, by three strategies. First, he consistently depicted the crisis as a U.S.-Iraqi confrontation and cast himself in the role of an Arab leader victimized by Western imperialism. This campaign had little effect on the NATO community, but it did resonate within the Third World in general and within the Middle East in particular. Second, Saddam extracted political advantage from the Western hostages which had been trapped in Iraq and Kuwait since the invasion. He did so first by the selective release of hostages. France, Germany and Japan were the nations which were accorded the highest priority in this campaign to fuel intra-coalition resentments and recriminations. Baghdad made no effort to disguise its intentions in this regard. Thus, at the time that it announced plans to release all remaining German hostages, the Iraqi Foreign Ministry explained the action as ". . .a message of encouragement to the people of Europe to take more independent actions and stand against the arrogant position of the Americans who are calling for war." Baghdad also derived political benefits from his surprise announcement of plans to release all remaining Western hostages as a demonstration of Iraq's peaceful intent and concern for human rights.

The third, and by far the most effective, Iraqi strategy for encouraging disagreement within the Western camp was Saddam's campaign to shift the focus of international attention away from the Kuwait situation by stressing the "linkage"

between instability in the Gulf and the enduring problem of Israeli occupation of territories acquired during the 1967 Arab-Israeli War. Here was an issue which could generate internecine tensions not only among the Arab members of the coalition but also between Washington and its European allies. The aforementioned disagreement between Washington and its NATO allies over the America's resupply of Israel during the 1973 Yom Kippur War illustrates the breadth and depth of U.S.-European disagreement over Israel. After 1973, all parties understood that this was an issue which had to be kept out of the NATO forum, which is precisely why it was so attractive to Saddam Hussein.

In spite of Saddam's best efforts, NATO's political coalition held together. But as the UN Security Council deadline of January 15 approached, the strains became more evident within the alliance. Various American congressmen fastened on the Kuwait crisis in order to berate Japan and the NATO allies for not carrying a fair share of the military and financial burden of common security.

Washington's European allies also kept their concerns and disagreements under control. Various governments expressed quiet but clear concern about Washington's management of the Kuwait crisis arguing that the United States had foreclosed diplomatic options and moved too quickly to a war posture in the Gulf. Some of Washington's allies were also attracted to the idea of linking Gulf security with Arab-Israeli relations, although they stopped short of officially sanctioning such a linkage policy. The European position was reflected in two resolutions passed by the European Community during a summit meeting in December. The first statement reiterated the EC's support for all 12 UN Security Council Resolutions condemning Iraq for its invasion of Kuwait, but a separate statement called for an Arab-Israeli peace conference under UN auspices.

All NATO members nonetheless recognized that there was little to be gained, and much to be lost, if a shouting match erupted within the alliance over the Kuwait issue. And once the shooting started in the Gulf on the morning of January 17, the allies closed ranks around the U.S.-led war effort. In this regard, Saddam's strategy of "divide and conquer" has proven to be a failure. But some Western analysts had been encouraged to make more of this test of Western solidarity than was justified. For NATO's handling of the Iraqi invasion of Kuwait has been a study in the politics of conflict avoidance and mutual accommodation rather than a model of common action against a commonly perceived enemy beyond the existing NATO boundaries.

The Kuwait crisis illustrates that even under the best of circumstances there are strict limits to what can be expected from a regional alliance created for a specific defensive purpose. In the case of the Kuwait crisis, political condemnation backed by an embargo served as the basis for a common Western position during the early stages of the crisis. NATO governments nonetheless demonstrated caution and moderation in their handling of their policy differences, due to a common concern that the alliance might not survive a recriminatory public dispute over the Kuwait issue in an era of declining Soviet threat.

This is the most important lesson of the Kuwait crisis - not to press too hard within the NATO forum on an issue which is literally marginal to the alliance's established purpose. It was the lesson of Suez, Afghanistan and the Yom Kippur War. And it is even more true today in a situation in which the risk of alliance collapse over an out-of-area dispute has never been greater.

Evolution of NATO's Out-of-area Policy in the Aftermath of the Cold War

As it was found out in previous parts of the research, allied handling of conflicts outside the North Atlantic area has been a controversial issue since the creation of NATO. However, in spite of pressure from different members, a policy of non-involvement was firmly established during the Cold War. NATO, as such, chose to limit itself to the collective defense of its own territory, as formal or informal co-operation between two or several members in other parts of the world was kept off the NATO agenda. Conflicts resulting from the colonial interests of some European countries and the American global anticommunist engagement were handled in accordance with this intra-Alliance understanding.

The end of the Cold War did not bring any immediate change to this more or less established agreement. The first Gulf War quickly showed the impossibility of an enlargement of NATO's responsibilities to out-of-area missions. Public opinion in a substantial number of European countries during the crisis in fact expressed strong feelings against such a change. Nevertheless, seven years later, NATO had several thousand troops on the ground in Bosnia-Herzegovina, and was heavily engaged in an extensive air campaign against former Yugoslavia. How and why this complete change

of policy took place?

The term "out-of-area" had a fairly clear and precise meaning in NATO vocabulary during the Cold War, referring primarily to events taking place outside the territory of NATO's members. The only exception to this ground rule was events taking place in the Soviet Union and the Warsaw Pact countries, which could have a direct bearing on the Alliance. The difference between the NATO area and the rest of the world was embodied in the security guarantee formulated in NATO's Article 5, requiring all members to consider attack on one state as an attack on all.

At NATO's 50th anniversary, this distinction seemed to have lost some of its relevance, as many argued that the term "out-of-area" no longer conceptualized any clearly defined area. It could, for instance, well be argued that NATO had in fact guaranteed the safety of the new state Bosnia-Herzegovina just as firmly as if it had been covered by Article 5. Nevertheless, the distinction between the territory covered by NATO's Article 5 and "out-of-area" territory in fact is still maintained, keeping its continued relevance. The problems connected to NATO's out-of-area involvement, which prevented an expansion of NATO's role during the Cold War, are as prominent now as then, and the solutions are far from obvious.

The development of NATO's out-of-area engagement can be divided into three main phases. First, between 1990 and 1992, NATO's traditional reluctance to engage in out-of-area conflicts came under pressure, but remained largely unchanged. In 1991, NATO recognized that the monolithic, massive and potentially immediate threat which was the principal concern of the Alliance in its first forty years has disappeared. Moreover, the dwindling of Soviet power meant that the contest for global hegemony was temporarily settled, and the United States was the only remaining super power with global interests and capabilities. Against this background, NATO was forced to undertake radical changes. As a result, NATO started to review its strategy, but even though the new Strategic Concept, which was adopted by the North Atlantic Council in November 1991, opened up for co-ordination in fields of common concern, few of the members envisioned an expanded out-of-area role for the Alliance at the time. However, the almost simultaneous collapse of the Soviet Union and the outbreak of war in Yugoslavia made NATO's new Strategic Concept outdated before it had been put Into practice.

Secondly, between 1992 and 1995, NATO gradually became involved in the war in Bosnia. Throughout this period, NATO's role was to support the United

Nations peacekeeping operation on the ground. However, through an incremental development, NATO's role in the joint operation gradually increased from the initial launching of a modest naval operation in the Adriatic in 1992 to the large-scale air campaign against the Bosnian Serbs in 1995. Throughout this period, NATO acted more and more independently, changing the joint operation from peacekeeping to peace enforcement by finally intervening directly in the war.

Thirdly, since 1995, NATO has embraced a filly independent out-of-area role. The increasing NATO influence in Bosnia culminated when NATO replaced the UN following the deployment of its first peacekeeping force to Bosnia in December 1995. The final step in this development occurred when NATO's members decided to use force against former Yugoslavia without the authorization of the UN Security Council in March 1999. The new out-of-area role was formalized in the new Strategic Concept adopted at NATO's 50th anniversary summit in Washington, 23-24 April 1999.

Following carefully all these developments, it could be concluded that: First, far from being a result of a designed policy or conscious choices, NATO's new out-of-area policy seems to have developed almost by accident. Each new step was driven by events, and appears to have been taken without full consideration of its potential consequences. In fact, the policy was formally formulated after it had been "*de facto*" implemented. Through this process, NATO has repeatedly backed itself into a corner, only to find itself in a situation where the credibility of the Alliance has become closely dependent on its ability to handle out-of-area conflicts effectively.

Secondly, it will be argued that NATO's overwhelming military strength has proved largely ineffective in relation to many of the challenges posed by internal conflicts such as Bosnia. In fact, the use of massive force may in many instances be counterproductive with regard to the overall goals of the operation.

Thirdly, as it is not possible to argue that NATO is defending the territory of a member state in any out-of-area conflict, force must be used in defense of some other particular Alliance interest. The vision of an interest-based Alliance was launched in a speech by NATO's Secretary General Manfred Werner to the North Atlantic Assembly in November 1990. In his speech Worner asked whether it was not possible to "develop an internal Alliance understanding whereby ... the degree of engagement in dealing with a given out-of-area problem might vary from Ally to Ally, but the assets of the Alliance would be available for co-ordination and support". But in the same speech Worner also recognized that "This would operate where there is a clear need for

common alliance interests to be defended". Balancing these two potentially conflicting needs - allowing some members to use common assets, but only in defense of common alliance interests - remains the essence of the dilemma of NATO's post-Cold War transformation.

The Dissolution of Yugoslavia and NATO's Initial Reaction

When Yugoslavia started to disintegrate in 1990-91, the initial assessment of most major Western powers was that the conflict was of little strategic significance and that national interests were not at stake. Four years later, however, the war in Bosnia had become the most challenging threat to existing norms and institutions that Western leaders faced. The war in Bosnia had also caused the deepest rifts in NATO on out-of-area issues since the Suez crisis in 1956. Moreover, as NATO's intervention in Bosnia was the first armed force operation in the history of the Alliance, its military credibility came to depend on the success of the operation. In the absence of a unifying external threat, NATO's first out-of-area operation was seen by many as a test case for the future integrity and viability of NATO. The logical question was therefore, if NATO leaves Bosnia without finishing the job, how can it be taken seriously anywhere else? Failure or success in Bosnia was then also linked to the resolution of all the other post-Cold War challenges NATO had to face. Bosnia became a test case for co-operation within the Partnership for Peace, with Russia, and new members.

The fate of Bosnia, and later also Kosovo, the fate of NATO and the enlargement process became closely interconnected. In the words of Richard Cohen: "The future of NATO ... is inextricably linked to what happens in Bosnia. We cannot have it both ways: an expanded and still-important NATO, and a failed effort in Bosnia". Thus, NATO's continued relevance and military credibility became linked to the successful resolution of the conflicts in the Balkans.

However, at that stage the Allies have been very far from the common understanding. For example, even the United States policy was far from clear and consistent. The Bush administration favored a united Yugoslavia, but made it clear that the United States would not accept use of force to achieve this. On the other hand, it was made equally clear that the United States would not engage its own forces to prevent this from happening. US policy was further confused by repeated resolutions

from Congress calling for increased independence for the Albanian minority in Kosovo. The White House was also anxious to demonstrate to domestic audiences that the United States would not continue to shoulder the bulk of Europe's post-Cold War security expenses. There was an undercurrent in Washington, that it was time for the Europeans to show that they could act as a unified power, following years of transatlantic tension regarding the US role in Europe.

As a result, international mediators lost their most valuable bargaining chip - a unified international stance, linking recognition to an overall solution, including a solution to issues such as contested borders and minority rights.

The question of external military intervention in Yugoslavia was the only point on which the major NATO powers agreed. None of the allies was willing to use force to back up their policy. In the autumn of 1991 NATO's out-of-area capacity was in some ways rather limited. The new Rapid Reaction Corps was still in the planning stage. Few senior NATO officers or planners had any experience in peacekeeping or understanding of the inherent limitations of the use of force in peacekeeping operations. The extent to which diplomatic, civilian, humanitarian and military aspects were interrelated in such operations was also something new to NATO's military staff. More importantly, there was no political consensus on an independent role for NATO in operations outside Article 5. The use of force was simply too big a step to consider in late 1991.

However, the outbreak of in Bosnia a few months later made it impossible not to consider this option. First half of 1992 was a turbulent time for NATO. Uncertainty regarding the future of the Alliance reached a new high, and competition the "Atlanticists", led by the United States, and the "Europeanists", led by France, was intense. In the midst of this competition, the North Atlantic Council decision on 4 June 1992 became the decisive step towards a new role for NATO outside the treaty area. The Council decided to "support, on a case by ease basis in accordance with our own procedures, peacekeeping activities under the responsibility of the CSCE, including making available Alliance resources and expertise". What had changed in the last six months since the adoption of the new Strategic Concept?

First, the Soviet Union had become the Commonwealth of Independent States, with a drastically reduced conventional military capacity. The threat of a major attack on NATO territory by conventional forces did not exist in the foreseeable future. Questions such as "Why do we need American troops in Europe if they are not going

to be used for real security problems" began to appeal frequently in the United States.

Secondly, the members of the Western European Union had decided to increase the operational capacity of the organization. In late May 1992, the French and German heads of states, Francois Mitterand and Helmut Kohl, launched a proposal for a 35,000-Strong joint army corps, intended to be the nucleus of a future European army. On the day that the Euro corps was announced, the US State Secretary, James Baker, called for political, diplomatic and economic action against Serbia, after having conferred with the British Prime Minister, John Major. Even though Baker did not call for military intervention, he argued that NATO was the only organization able to field forces of the kind needed to impose a cease-fire in Yugoslavia.

The UN's limited capacity was a third factor which opened up for NATO involvement. Many politicians argued that peace had to be enforced, not brokered, in Yugoslavia and that NATO had to assume this role. The UN Secretary General, Boutros Boutros Gahli, fuelled the NATO-WEU competition by suggesting that he might ask the WEU to undertake peacekeeping operations in Bosnia.

What finally prompted NATO to act was probably the discussion prior to the CSCE meeting in Helsinki in July. By early summer it became clear that the CSCE was about to expand its responsibilities to include peacekeeping on the European continent, but there was no agreement as to how this should be done. France predictably objected to any expansion of NATO's role, and argued that the CSCE should direct future requests for military assistance to individual states, not to regional organizations. Nevertheless, France caved in to pressure and the NAC made a formal decision to support the CSCE on a case-by-case basis. Following NATO's decision, the WEU soon followed suit, and on 19 June, issued the Petersberg Declaration, stating its willingness to "support, on a case by case basis and in accordance with our own procedures, the effective implementation of conflict-management measures, including peacekeeping activities of the CSCE or the United Nations Security Council".

Thus, within the same month, both the Atlantic and European defense organizations had opened up for involvement in peacekeeping operations, outside their "normal" area of operation. These have been decisions not really about what should be done in the former Yugoslavia but about future security arrangements in Europe.

As a result of these decisive political steps, in response to formal request from the UN Secretary General to NATO and the CSCE, both NATO and the WEU authorized parallel naval operations to monitor international compliance with UN

sanctions against former Yugoslavia. Thus NATO's involvement in the Yugoslav crisis began with the Operation Maritime Monitor, when the NATO Standing Naval Force Mediterranean entered the Adriatic Sea on 16 July 1992. At the time, NATO had never carried out an exercise for peacekeeping purposes and had no contingency plans for peacekeeping operations.

The decision to launch the operation seemed to be only partly related to events in Bosnia. A naval surveillance operation could only be expected to have a marginal influence on a war that was being fought on the ground. NATO's members had ruled out the use of force, but also stated their willingness to use NATO in support of peacekeeping activities. The combination of a reluctance to use force and a need to demonstrate NATO's capability to act, led to the decision to launch a naval operation. This became NATO's first reluctant step into an out-of-area role in the former Yugoslavia.

NATO's Policy in 1992-1995: Assisting to UN

Over the next three to four years, NATO's involvement in Bosnia increased gradually. Throughout this period, NATO's role was restricted to the provision of military support to the United Nations Protection Force (UNPROFOR) which was operating on the ground. Even though NATO's role remained one of support to another organization, NATO's involvement expanded both quantitatively and qualitatively. The quantitative expansion occurred as new tasks were added to those already performed by NATO. The qualitative expansion took place through an increase in the use of force, a growing willingness to intervene directly in the war, and a gradual increase in NATO's control of the entire international operation. In December 1995, the transformation culminated with the formal transition of power from UNPROFOR to the NATO-led Implementation Force (IFOR).

During this period, NATO had to confront three major challenges. The first was how to apply force in a peacekeeping operation. The second was how the UN and NATO, with their fundamentally different purposes, structures and traditions, could effectively work together towards the same goal. And the third was how to identify common interests and common within the Alliance with regard to an out-of-area conflict.

The first expansion of NATO's tasks in Bosnia took place in October 1992, when NATO's naval monitoring operation was mirrored by Operation Sky Monitor. NATO's Early Warning and Control System (AWACS) force began to monitor the UN ban on military flights in the airspace of Bosnia-Herzegovina. The operation was an extension of the role of NATO AWACS aircraft already involved in the monitoring operation in the Adriatic. The information gathered was to be passed on to UNPROFOR as part of its overall monitoring operation on the ground.

The first qualitative expansion took place when Operation Maritime Monitor was changed to Operation Sharp Guard in November 1992. With reference to Chapter VII and VIII of the UN Charter, the Security Council called upon:

States, acting nationally or through regional agencies or arrangements, to use such measures commensurate with the specific circumstances as may be necessary under the authority of the Security Council to halt all inward and outward maritime shipping in order to inspect and verify their cargoes and destinations and to ensure strict implementation of the provisions of Resolutions 713 (1991) and 757 (1992).

The resolution allowed for the use of coercive force in the ongoing naval operations in the Adriatic.

The second qualitative expansion took place when the air operation was also authorized to use force. On 31 March 1993, the UN Security Council (again acting under Chapter VII of the Charter) authorized member states:

… acting nationally or through regional organizations or arrangements, to take, under the authority of the Security Council and subject to close co-ordination with the Secretary General and UNPROFOR, all necessary means in the airspace of the Republic of Bosnia and Herzegovina, in the event of further violation to ensure compliance with the bans on flights....

The North Atlantic Council approved plans for Operation Deny Flight on 8 April. The operation began four days later.

A few months later, another step was made when NATO was authorized to use "protective air power in case of attack against UNPROFOR in the performance of its overall mandate, if it so requests". At the North Atlantic Council meeting on 10 June 1993, NATO gave its support to the establishment of safe areas and offered protective air power in case of attack against UNPROFOR, if it so requests. This seemingly unproblematic formulation became known as the "dual key" arrangement, requiring the approval of both the UN and NATO in order to launch NATO air strikes. The close air

support operation began on 22 July 1993. However, this command and control procedure would soon create problems for NATO's reputation as an effective military organization.

Then, on 2 August 1993, in response to Serb advances outside Sarajevo, the North Atlantic Council expanded its own mandate, without UN authorization. After a lengthy debate, the Council decided to make an "extensive interpretation" of UN Security Council Resolution 836, which authorized close air support in defense of UNPROFOR, by stating:

The Alliance has now decided to make immediate preparations for undertaking, in the event that the strangulation of Sarajevo and other areas continues, including wide-scale interference with humanitarian assistance, stronger measures including air strikes against those responsible, Bosnia Serbs and others, in Bosnia-Herzegovina.

In other words, NATO would not only provide protection for UNPROFOR would also conduct retaliation air strikes against one of the conflicting parties. Even though it was stressed that possible strikes should not be interpreted as a military intervention in the conflict, NATO was, in practice, becoming directly involved in the war. However, the UN remained largely in control of NATO operations through the command arrangement, as NATO's use of air power had to be authorized by the UN Secretary General.

These arrangements were the basis for NATO involvement over the next two years. A further step taken in July 1995 - when the UN control of power was abandoned by an amendment of the command structure, the authority to approve air strikes was delegated from the UN Secretary (or his special representative) to the commander of UNPROFOR, and the chair of command now only consisted of military personnel from NATO countries - shows that the escalation of NATO involvement was driven by day-to-day developments in the theatre, up to the point where NATO was so deeply involved that the credibility of the Alliance became intrinsically linked to its ability to manage the conflict. Throughout the UNPROFOR period, NATO had learned some expensive lessons. First, the difficulties connected with use of force in a peacekeeping operation had been painfully demonstrated. Secondly, co-operation with the UN had demonstrated the difficulties of unifying NATO's need for swift and decisive action with the UN's need for broad consensus on a much wider range of interests. The most important lesson, though, was that an operation with no clear

common NATO interest, resulted in the pursuit of differing national interests and a predominance of domestic agendas, which caused serious strains on the internal cohesion of the Alliance.

From Peace Keeping to Peace Enforcement

In 1995, NATO formally decided to "cross the Mogadishu line" by moving from peacekeeping to peace enforcement. At the same time NATO abandoned the role as a UN support organization, and took complete control of its own operation. Both changes took place without a formal extension of the mandate from the UN Security Council. These important NATO decisions were a reaction to more or less unpredictable events on the ground in Bosnia.

The turning point was the fall of Srebrenica on July 11, 1995, which finally shattered any hopes of a continuation of the hard-pressed UNPROFOR operation. The same event effectively destroyed any illusions that may have remained as to what could be achieved by NATO air power, as were any illusions about the willingness of UNPROFOR states to accept losses in defense of Bosnian civilians.

The fall of Srebrenica had several consequences. As both Europe and the United States were in a desperate position, they were able to agree on a new policy. NATO decided to take tougher actions against Serb attacks on the safe areas and the "dual key" arrangement was therefore revised. The UN civilian authorities were cut from the chain of command, despite Russia's objections. The UN "key" was delegated to the Commander of a strengthened UNPROFOR, the French General Bernard Janvier, who was authorized to delegate it further to the Commander of UNPROFOR, "when operational circumstances so require". New rules of engagement were also agreed, allowing pre-emptive strikes on a wide range of targets in order to protect NATO planes from the Serb air defenses. NATO was determined to demonstrate its force - all it needed was new provocation from the Serbs.

The provocation came in late August when a mortar hit the Sarajevo marketplace killing 37 people. In retaliation NATO planes attacked Bosnian Serb positions around Sarajevo on 30 August. The ensuing Operation Deliberate Force lasted several weeks. There seems to be general agreement that the operation had a psychological effect on both sides and made international threats of the use of force

more credible. The major advantages of the Serbs forces, which were superior mobility and firepower, also suffered, as NATO's bombs targeted the Serb lines of command and ammunition and fuel depots. However, the military effect of the air campaign was contested and it would be simplistic to argue that the air campaign ended the war. At the end of the campaign, NATO had almost exhausted its list of targets (ammunition dumps, communication equipment, arms factories and strategic bridges) which had been chosen carefully in order to minimize collateral damage and carnage, when the Serbs complied with NATO'S ultimatum and agreed to a cease-fire.

Consequently, on 20 September 1995, CINCSOUTH and the UN Peace Force Commander concluded that the Serbs had complied with the conditions set out by the two organizations: no attacks on Sarajevo and other safe areas, withdrawal from the Sarajevo exclusion zone and freedom of movement for the UN and NGOs and unrestricted use of the Sarajevo airport. The air campaign was therefore called off.

Operation Deliberate Force was the last step in the informal extension of NATO's authority during the UNPROFOR period. The mandate for NATO's use of force was still vested in Security Council Resolution 836, issued in April 1993. Bearing in mind that NATO was only authorized to protect UNPROFOR and that UNPROFOR was only to use force in self defense, one must conclude that NATO had strayed considerably from the original mandate.

On 20 December 1995, NATO finally took center stage in the international effort to end the war in Bosnia-Herzegovina, when NATO's Implementation Force (IFOR) replaced UNPROFOR. By the same move, the Alliance also took another step in the piecemeal development of an independent role for NATO outside its own treaty area. The new force was under the political direction of the North Atlantic Council, commanded by NATO's Supreme Allied Commander, and the majority of troops came from NATO member countries. After a gradual disentangling from UN command and control throughout 1995, NATO was finally in complete control of both ground and air operations in Bosnia.

The mandate for NATO's operation was set out in UN Security Council Resolution 1031, which was adopted on 15 December 1995. The Resolution marked a significant change in the relationship between NATO and the UN. Bearing in mind the experience of NATO's support role in connection with UNPROFOR, NATO planners wanted to ensure that the Alliance would not find itself in a position where its ability to act was restrained by civilian interference in the chain of command. In order to prevent

this, those parts of the Dayton Agreement to be implemented by NATO had been prepared by the Alliance's military planners, and were negotiated with the active participation of US General Wesley Clark, who later became SACEUR. Consequently, Article 1 of Annex 1-A of the Agreement invited the UN Security Council to adopt a resolution authorizing the establishment of the implementation force. It further stated that "It is understood and agreed that NATO may establish such a force, which will operate under the authority and subject to the direction and political control of the North Atlantic Council through the NATO chain of command".

The Security Council responded by adopting Resolution 1031, authorizing:

The member states acting through or in co-operation with the organization referred to in Annex 1-A of the Peace Agreement to establish a multinational implementation force (IFOR) under the unified command and control in order to fulfill the role specified in Annex 1-A and Annex 2 of the Peace Agreement.

The same member states were also authorized to take:

All necessary measures to effect the implementation of and to ensure the compliance with Annex 1-A of the Peace Agreement.

And to take:

All necessary measures, at the request of IFOR, either in defense of IFOR or to assist the force in carrying out its mission, and recognizes the right of the force to take all necessary measures to defend itself from attack or threat of attack.

What the UN Security Council really did was to relinquish UN authority over NATO's operation in Bosnia-Herzegovina. Even though the degree of UN control has sometimes been a reality and at other times marginal, the arrangements for IFOR went one step further by delegating all political and operational control to NATO. Furthermore, whereas UNPROFOR could only use force in self-defense, IFOR was authorized to use force also in response to non-compliance with the commitments undertaken by the parties in the Dayton Agreement.

However, overall, the IFOR operation differed quite radically from established peacekeeping principles. Even though it was based on consent inasmuch as all three parties had signed the peace agreement, all the parties signed under heavy pressure, and the Serb wartime leaders had beer effectively excluded from the peace negotiations. It was therefore probable that compliance with the agreement would have to be enforced. Another important peacekeeping principle - that of impartiality - was

formally in place in the Dayton Agreement, but in practice biased military and economic support to one of the entities entailed that the Bosnian Serbs were unlikely to see the peacekeeping force as impartial. The heavy involvement of major powers the fact that costs in connection with the peacekeeping operation were borne by the nations individually also deviated from traditional UN peacekeeping principles.

CHAPTER 3:
NATO'S INDEPENDENT OUT-OF-AREA POLICY: CURRENT DEVELOPMENTS AND FUTURE TRENDS

Since NATO's first fully independent out-of-area operation was deployed to Bosnia the end of 1995, NATO as such or some of its members have directly involved in several out-of-area conflicts. During 1996 and 1997, NATO appeared to be stretched to its limits by the Bosnia operation. Consequently, internal instability in Albania and new confrontations with Iraq were handled through the traditional Cold War mechanism of *ad hoc* "coalitions of the willing". However, the eruption of violence in Kosovo prompted a new joint NATO response, and this time NATO acted without UN authorization. The air strikes against the Federal Republic of Yugoslavia (FRY) therefore marked the last step to date in the development of NATO's new out-of-area role.

NATO's response to out-of-area conflicts over the last few years can be divided into three broad categories: NATO-operations as such, coalitions of the "able and willing", and assistance through Partnership for Peace. The advantages and disadvantages connected with each of these will be briefly discussed below in the light of the experiences of the last few years.

New Mechanisms for Handling Out-of-area Challenges: Albania 1997

NATO's first out-of-area challenge after its deployment in Bosnia came from Albania, a country bordering two of NATO's members. In March 1997, not long after the controversial extension of the IFOR mandate by another 18 months, Albania disintegrated into chaos and anarchy. Immediately thereafter, Albanian refugees started pouring into Italy. If NATO's declaration of its willingness and capacity to intervene outside its own area was to be credible, one would think that it had to encompass conflicts so close to NATO's own area. However, NATO intervention did not appear to be a realistically considered option.

Instead France, Greece, Austria, Spain, Denmark, Turkey and Romania joined Italy which led the establishment of a Multinational Protection Force for Albania. The *ad hoc* coalition was given a mandate by the UN Security Council, authorizing:

Member States participating in the multinational protection force ... to facilitate the safe and prompt delivery of humanitarian assistance, and to help create a secure environment for the missions of the international organizations in Albania.

Compared with IFOR, the force which consisted of approximately 6,000 troops was given a strictly limited mandate. It should neither disarm rebel factions, nor protect the Albanian population against any threats. Its mission was to ensure the safe delivery of humanitarian aid. Force should only be used to ensure the security and freedom of movement of the personnel of the said multinational protection force - i.e. only in self-defense. In this respect, the mandate was similar to the much-criticized UNPROFOR mandate.

Operation Alba was deployed in Albania in mid-April 1997. The original three-month mandate was extended once by 45 days, and the force withdrew on the expiration date on 12 August. The operation was largely regarded as a success, as internal riots settled down without any major incidents between the force and local factions. The force kept a low profile and did not attempt to promote any political solution to the Albanian anarchy. It was criticized for paying too much attention to its own security, only arriving at conflict spots after the local gang wars had been settled.

Regardless of its actual achievements, Operation Alba was significant in that it was an attempt to launch a third approach to peacekeeping. With the UN still discredited by UNPROFOR and NATO preoccupied in Bosnia, a third solution was found in the establishment of a coalition of the "able and willing". This was in many ways a return to the Cold War solution of *ad hoc* coalitions assembled for a specific and limited purpose. The only remarkable thing about this solution in the post-Cold War era was that both NATO and the WEU had declared their willingness to undertake exactly these types of tasks. In this respect, Operation Alba was a considerable blow to the credibility of the WEU's claim of an independent peacekeeping role, as well as to NATO's new Combined Joint Task Forces (CJTF). Even though it could be argued that Operation Alba, to all intents and purposes, if not in name, was a CJTF, it was remarkable that NATO deliberately chose not to have its name attached to the operation in any way. The most likely explanation was that NATO's out-of-area capacity was stretched to its limits by the Bosnia operation, and that the conflict was not considered serious enough by several NATO members. A new NATO operation would have raised the question of US participation and leadership, and it was unlikely that the US Congress would have accepted another ground deployment in Europe so

closely after the decision to extend the IFOR operation. All in all, there was simply not enough "common alliance interest" to justify NATO intervention.

At the time, the "Albania-solution" - an *ad hoc* coalition of the willing - seemed the most viable alternative for future engagements by NATO's members outside the treaty area. The large operation in Bosnia began to appear as a once in a lifetime experience. The risks attached to linking NATO's reputation to the outcome of complex internal conflicts, and the difficulties of establishing a common NATO policy in such operations, implied that more flexible coalitions would probably be preferred in the future.

At the same time, however, it was also evident that *ad hoc* coalitions had some limitations. First, if too much of the NATO members' military engagement took place outside the NATO framework, integrated NATO structures could be undermined in the long run, and questions about NATO's relevance could resurface. Second, if humanitarian conditions in Albania had deteriorated further, NATO could not have escaped calls for a more forceful intervention, being the only organization with such a capacity.

However, whereas NATO's out-of-area capacity had appeared stretched to its limits in 1997, it proved to be quite flexible when the situation in Albania became more severe. This became evident after the withdrawal of the Multinational Protection Force in August 1997, when NATO became more directly involved in Albania, though not through joint military operation. Instead, NATO's new Partnership for Peace (PfP) program for co-operation with former East-block countries was invigorated.

In Albania PfP provided a flexible framework for a less ambitious and more anonymous NATO involvement in a volatile situation right outside NATO's borders. Through PfP NATO could become involved in Albania without investing its overall reputation and credibility in one operation, as it had been forced to do in Bosnia.

The Albanian PfP program comprised defense-related bilateral assistance from NATO members and Partner countries and NATO assistance as such. PfP exercises were also conducted in Albania, making NATO's presence temporarily more visible. Partly in response to the eruption of violence in Kosovo and subsequent Albanian uneasiness, NATO approved an Individual Partnership Program for Albania in May 1998. The program covered immediately relevant activities, such as the reinforcement of border forces with equipment, means of transport and communication, the security of munitions and weapons dumps, and the evaluation of Albanian's potential needs by

a NATO civil emergency assessment team in case of a further deterioration of the situation. NATO was also to send eight teams of experts to Tirana to help restructure the Albanian forces.

The enhanced use of PfP assistance to Albania contributed, at least temporarily, to internal stability, and to preventing the crisis in Kosovo from spreading to neighboring Albania. All in all, though far less noticeable than NATO's other out-of-area activities, the PfP program has probably contributed significantly to the enhancement of stability in Eastern Europe by engaging aspiring NATO members in practical military co-operation with the Alliance.

Crossing the Historical Line: Kosovo Military Campaign

Following the Albanian crises, which was handled outside the NATO framework, the favored alternative for future responses to out-of-area conflicts appeared to be *ad hoc* coalitions of the willing and flexible use of military assistance through PfP program. However, the eruption of violence in Kosovo during 1998 and 1999 eventually led to the deployment of several new NATO out-of-area operations. Most importantly, however, NATO expanded its "out-of-area" role even further through its decision to launch air strikes against a sovereign state without explicit authorization from the UN Security Council. That happened on 24 March 1999.

The previous day, NATO Secretary General Javier Solana had justified the action by pointing to the refusal of Yugoslav President Milosevic to accept the proposals negotiated in Rambouillet and to abide by previously agreed limits on Serb Army and Special Police Forces in Kosovo. Thus, the use of force was the only way to prevent more human suffering and more repression and violence against the civilian population of Kosovo. The argument, obviously, was more political than legal, as were the justifications invoked at the time by the various NATO capitals. Apart from the debate on the political wisdom of military action, reactions ranged from simple skepticism to vehement condemnation of the legality of the campaign. NATO's unilateral use of force, critics argued, was, at best, a significant departure from classic international legality. At worst, it jeopardized the international order based on the UN Charter which entrusts the Security Council with the responsibility to monitor and guarantee international peace and security.

When the fighting between Serb military and police forces and the Kosovo Liberation Army escalated in early 1998, NAC's first reaction was to express deep concern over the situation. The UN Security Council condemned "the use of excessive force by Serbian police forces against civilians and peaceful demonstrators in Kosovo, as well as acts of terrorism by the Kosovo Liberation Army", and introduced a comprehensive weapons embargo against FRY (Resolution 1160, adopted 31 March 1998). NATO intensified its PfP activities in Albania in order to enhance stability in the surrounding areas of Kosovo. However, the fighting continued, and in June 1998 NATO instructed its military staff to assess and develop "a full range of options with the mission ... of halting or disrupting a systematic campaign of violent repression and expulsion in Kosovo". The same month NATO conducted Exercise Determined Falcon in Albanian and Macedonian airspace. A total of 80 planes from 13 NATO countries participated in the exercise, the objective of which was to demonstrate NATO's capability to project power rapidly into the region. However, NATO's explicit and implicit threat to use force only seemed to stiffen the resolve of the Kosovo Liberation Army, which refused to negotiate any other solution than full independence.

As media attention faded, the pressure on NATO eased, and during the summer of 1998 Milosevic was allowed to pursue his repression of the Kosovo population more or less undisturbed. However, 50,000 Kosovo-Albanians were driven from their homes and when the humanitarian situation for the refugees deteriorated with the onset of winter, criticism grew stronger. On 23 September, the UN Security Council was able to agree on Resolution 1199 demanding a cessation of all actions affecting the civilian population, the safe return of refugees and free and unimpeded access for humanitarian organizations in Kosovo. If these demands were not met, the Security Council would consider further action and additional measures to maintain or restore peace and stability in the region. Despite obvious disagreement in the Security Council over what these additional measures should be, NATO decided to start preparations for air strikes against the Federal Republic of Yugoslavia (FRY). At an informal meeting of defense ministers in Portugal the same week, NATO issued an ACTWARN decision which entailed that NATO Commanders would begin to identify the assets required for a limited and a phased air campaign in Kosovo.

Use of force was avoided once more when FRY accepted the deployment of the unarmed civilian OSCE-led Kosovo Verification Mission (KVM) to Kosovo. The Mission was tasked with verifying that the parties adhered to UN Security Council

Resolutions 1160 and 1199, and deployment began m late October 1998. KVM did manage to prevent an immediate humanitarian disaster for the 50,000 refugees, but its presence did not hinder an escalation of fighting in early 1999. The last attempt to reach a peaceful settlement failed when the negotiations in Rambouillet ended without agreement on 18 March 1999. The following day, the OSCE chairman, Norwegian Foreign Minister Knut Volleixek, ordered the withdrawal of KVM, which was completed without hindrance from any of the parties the next day. Three days later, on 24 March 1999, NATO commenced an extensive air campaign against FRY. The campaign lasted for 78 days, until Milosevic accepted a peace agreement with NATO on 9 June 1999. The agreement was sanctioned by the UN Security Council in Resolution 1244 the day after. The outcome of the war was basically in line with the terms set out during the negotiations in Rambouillet. While Kosovo would remain a part of the Federal Republic of Yugoslavia, the agreement and the resolution paved the way for the withdrawal of Serbian forces from Kosovo, and for the deployment of the Kosovo Force (KFOR).

Even though all NATO nations agreed that there was a moral and political imperative to act, the members of the Alliance could not easily and unanimously find a legal ground for military action against Serbia. Six countries at least - Belgium, France, Germany, Greece, Italy and Spain - had political and legal misgivings reflecting the unfinished state of international law concerning humanitarian intervention.

One of the most assertive proponents of military action was the US. Washington's argument, however, was based more on political than legal arguments. Indeed, Secretary of State Madeleine Albright said that she did not think she had to answer international legal questions in detail and called upon existing UN resolutions - Resolution 1160 (31 March 1998) and especially Resolution 1199. Washington argued, that Serbian forces were in blatant violation of that resolution's requirements and the resolution being based on Chapter VII of the UN Charter provided sufficient ground for NATO to undertake military action.

The then German Foreign Minister, Klaus Kinkel, declared himself unsatisfied with the US arguments, and sought alternative legal ground. Kinkel first pointed out that the reference to Chapter VII in Resolutions 1160 and 1199 was insufficient in that Russia and China both had accompanied their votes by legally valid declaratory statements spelling out that the resolutions should not be interpreted as authorizing the

use of force. Indeed, on Resolution 1199 China had abstained on the ground that the text constituted encroachment on Yugoslavia's sovereignty - thereby preventing any kind of action, military or otherwise - while Russia had pointed out that both resolutions stated that if they were not complied with, the Council would have to consider further action.

Kinkel tried to develop a different argument, relying on a cluster of conditions that combined, in his view, to make a military threat legitimate. These conditions included the inability of the Security Council to act in what was an emergency situation; the fact that a military threat was in the 'sense and logic' of Resolutions 1160 and 1199 (although, he conceded, the latter did not provide direct legal ground); and the particular high standards for the protection of human rights reached by European states in the OSCE context, in particular regarding the protection of minorities.

Like the former German Foreign Minister, NATO Secretary General Javier Solana relied on a cluster of reasons to justify the threat of military action in October 1998. These reasons included:

- the failure of Yugoslavia to fulfill the requirements set out by Resolutions 1160 and 1199, based on Chapter VII of the UN Charter;
- the imminent risk of a humanitarian catastrophe, as documented by the report of the UN Secretary-General Kofi Annan on 4 September 1998;
- the impossibility to obtain, in short order, a Security Council resolution mandating the use of force; and
- the fact that Resolution 1199 states that the deterioration of the situation in Kosovo constitutes a threat to peace and security in the region.

These reasons are close to those listed by the government of the Netherlands, which also added a reference to a checklist for military action adopted by the Dutch parliament in 1994 and stating that "gross violations of human rights, such as genocide, can be a reason for military intervention by the international community" (the text does not specify whether that intervention must be based on a UN mandate).

The French government was equally torn. On 7 October, answering a parliamentary question, Foreign Minister Hubert Vedrine responded that a possible military action had to be authorized by the Security Council, although he had earlier declared to the press that "it was open to interpretation"

whether Resolution 1199 was moving NATO towards military action. Addressing the Senate on 17 March 1999, Vedrine seemed more convinced that Resolution 1199, taken in the context of Chapter VII, warranted military action. As for French President Jacques Chirac, in a statement reminiscent of Chancellor Schroder's, he had declared on 6 October that France:

considers that any military action must be requested and decided by the Security Council. In this particular case, we have a resolution which does open the way to the possibility of military action. I would add, and repeat, that the humanitarian situation constitutes a ground that can justify an exception to a rule, however strong and firm it is. And if it appeared that the situation required it, then France would not hesitate to join those who would like to intervene in order to assist those that are in danger.

Unlike Kinkel, Chirac did not attempt to bridge the legal gap between the resolution which opens the way to the possibility of military action and military action itself.

Even greater uncertainty reigned in the position of the Italian government. In late September 1998, then Defense Minister Benjamino Andreatta hinted that the danger of humanitarian catastrophe caused by Belgrade created the conditions for the application of article 51, meaning, presumably, the right to collective self-defense. According to the UN Charter, however, this right only applies to states - not entities such as Kosovo. Speaking to parliament a few days later, then Prime Minister Romano Prodi said that, first, there was no ground for military action in Kosovo as all means to reach a peaceful solution had not been exhausted and, second, that military action would have to be legitimized by the Security Council. But by 12 October, no further objection was heard from the Italian government regarding the NATO decision to threaten the use of force.

To sum up, the question of legitimization in situations where the consent of the conflicting parties is lacking represents a permanent dilemma connected to NATO's out-of-area interventions. In such cases, as it has already happened on several occasions, many would argue that NATO intervention would have to be authorized by the UN Security Council or the OSCE. However, in that case, NATO's ability to act would become dependent on the consent of non-NATO countries, the Alliance might in fact become completely paralyzed. The bombing of the Federal Republic of

Yugoslavia, which began in March 1999, had made it clear that NATO was willing to play a fully independent "out-of-area" role and to attack a sovereign state without an explicit mandate from the UN Security Council. The 1999 Strategic Concept formalized this new policy by stating, that the Alliance was "to stand ready, case-by-case and by consensus, ..., to contribute to effective conflict prevention and to engage actively in crisis management, including crisis response operations". Previous references to support of operations under the authority of the UN or the OSCE were left out, marking NATO's independence of other international organizations in this issue.

It is unlikely that the debate over whether NATO's decision to launch an air campaign against FRY was legitimate, and whether the campaign increased or diminished human suffering in Kosovo, will ever reach one final conclusion. The incompatible goals of the conflicting parties and the inherent difficulties connected to any attempt to settle such disputes should caution against simple answers.

NATO's New Mission: Tackling Terror

Although the struggle against international terrorism had been recognized as one of the Alliance's main glues for the 21st century, as it is often the case, NATO have begun in practice to act on this principle long before Allies have quantified it in theory. At the initial stage of this struggle Allies backed up their solidarity with action.

Immediately after terrorists crashed hijacked airliners into the Pentagon and World Trade Center, NATO Allies and Partners have lined up behind the United States in an unprecedented demonstration of support and solidarity. From invoking Article 5 in the immediate aftermath of the attacks to lending the United States the Alliance's airborne warning and control systems (AWACS) aircraft and preparing for a possible role in humanitarian operations in Afghanistan, actions have demonstrated louder than words the unity of Europe and America in the face of common security challenges.

The decision on 12 September to invoke Article 5 of the Washington Treaty, the core clause of NATO's founding charter which states that an armed attack against one Ally in Europe or North America shall be considered an attack against them all, remains the most profound expression of Alliance solidarity. Initially invoked provisionally, pending determination that the attacks on the United States were

directed from abroad, the decision was confirmed by NATO Secretary General Lord Robertson on 2 October after US envoys briefed the North Atlantic Council (NAC) on the results of investigations into the attacks.

Few of the Alliance's founding fathers could have imagined that the first invocation of Article 5 would come in the wake of an attack on the United States and not on a European Ally. However, all would surely have been impressed by the speed of response and the degree of unity it represented. Moreover, the NAC's historic decision was but one of many demonstrations of support for the United States and condemnations of the attacks made at NATO headquarters in the days following 11 September.

Also on 12 September, the 46 members of the Euro- Atlantic Partnership Council - 19 Allies and 27 Partners - unconditionally condemned the attacks as brutal and senseless atrocities and an attack on their common values. Moreover, they agreed that they would not allow these values to be compromised by those who follow the path of violence and pledged to undertake all efforts to combat the scourge of terrorism. On 13 September, the NATO-Russia Permanent Joint Council condemned the attacks and agreed on the need for NATO-Russia cooperation in combating international terrorism. And on 14 September, the NATO-Ukraine Commission condemned the attacks on the United States and, in a statement following the meeting, Ukraine announced that it stood ready to contribute fully to ensuring that those responsible for the attacks were brought to justice.

Having invoked Article 5, the Allies agreed on 4 October - at the request of the United States - to take eight measures to implement it and expand the options available in the campaign against terrorism. Specifically, they agreed to:

- enhance intelligence sharing and co-operation, both bilaterally and in the appropriate NATO bodies, relating to the threats posed by terrorism and the actions to be taken against it;
- provide, individually or collectively, as appropriate and according to their capabilities, assistance to Allies and other states which are or may be subject to increased terrorist threats as a result of their support for the campaign against terrorism;
- take necessary measures to provide increased security for facilities of the United States and other Allies on their territory;

- backfill selected Allied assets in NATO's area of responsibility that are required to directly support operations against terrorism;

- provide blanket overflight clearances for the United States and other Allies' aircraft, in accordance with the necessary air traffic arrangements and national procedures, for military flights related to operations against terrorism;

- provide access for the United States and other Allies to ports and airfields on the territory of NATO nations for operations against terrorism, including for refueling, in accordance with national procedures.

The North Atlantic Council also agreed, that the Alliance is ready to deploy elements of its Standing Naval Forces to the Eastern Mediterranean in order to provide a NATO presence and demonstrate resolve; and that the Alliance is similarly ready to deploy elements of its NATO Airborne Early Warning force to support operations against terrorism.

These collective actions operationalised Article 5 of the Washington Treaty and clearly demonstrate the Allies' resolve and commitment to support and contribute to the U.S.-led fight against terrorism.

On 8 October, five NATO AWACS aircraft, together with their crews - including personnel from Belgium, Canada, Denmark, Germany, Greece, Italy, the Netherlands, Norway, Portugal, Spain, Turkey, the United Kingdom and the United States - flew to the United States to assist with counter-terrorism operations. The deployment was for an initial six months with a first rotation after six weeks. During this time, French AWACS aircraft have taken over responsibility for those tasks, which would normally have been performed by the NATO planes, in particular over Bosnia and Herzegovina.

NATO's Standing Naval Force Mediterranean, which consists of eight frigates and one logistic-support ship from eight countries, set off for the Eastern Mediterranean on 9 October. These forces have not been involved in combat operations, but have demonstrated Alliance resolve and participation in the campaign against terrorism. Moreover, they were available for other missions, including participation in diplomatic initiatives, such as under the Alliance's Mediterranean Dialogue, NATO's forum for discussion and cooperation with countries in the wider Mediterranean region. These ships were later joined by the Standing Naval Force Atlantic.

The United States and the United Kingdom began military operations against the al-Qaida terrorist network and the Taliban regime, which has been harboring it in Afghanistan, on 7 October. Afghanistan is hardly an example of the United States and Great Britain going it alone. It is true that Operation Enduring Freedom was not a NATO operation, but NATO militaries provided air space, refueling, access to ports and bases for the operations in Afghanistan. Nearly every NATO member sent forces to the region for either war fighting or peacekeeping, and assisting with humanitarian relief for the Afghan people. The International Security Assistance Force (ISAF) has been under the command of NATO members since its deployment in January 2002: United Kingdom, Turkey, Germany and the Netherlands. NATO Allies provide 95% of the more than 5000 personnel in ISAF III. NATO, as an organization, provides essential operational planning, intelligence and other support to ISAF III, and may assume an even greater role in the future. NATO forces in the Balkans have also contributed to the fight against terrorism. They have arrested several suspected terrorists with links to the al-Qaida network and are continuing to investigate the activities of foreign nationals who came to the region as volunteer soldiers during the fighting and have remained.

In response to a potentially grave humanitarian situation, the NAC tasked NATO's military authorities on 13 November with preparing contingency plans for possible humanitarian operations in and around Afghanistan. The Alliance has both expertise and experience in this field, as well as significant logistical capabilities, as demonstrated during the 1999 Kosovo crisis. The unique cooperation among NATO's armed forces that underpinned the success of both the coalition campaign against Iraq a decade ago and the ongoing peace-support operations in the Balkans could prove extremely beneficial in difficult conditions.

In the wake of 11 September, the Alliance has considerably increased its efforts against the dangers of terrorism by weapons of mass destruction (WMD) in all fields, including political, military and medical ones. The Allies are exchanging information on issues related to WMD terrorism more extensively and more frequently. And the WMD Center is contributing to improved coordination of all WMD - related activities at NATO Headquarters.

On 25 and 26 October, heads of Alliance and Partner countries civil emergency planning organizations met at NATO to discuss the implications of the 11 September attacks. They agreed to prepare an inventory of national capabilities, including

transport, medical and scientific assets, which could be made available in the event of a biological, chemical or radiological attack to be better able to protect civilian populations. If required, the Euro-Atlantic Disaster Response Coordination Center, which is based at NATO and staffed by experts from several NATO and Partner countries, could act as a clearing house for international assistance - in the same manner as it has done in response to several natural disasters in recent years.

The coalition against terror has been global. In its collective campaign against terrorism United States have been standing together with about 90 countries. Approximately 3,000 coalition troops participated in Operation Anaconda in the active phase of the war in Afghanistan. These troops came from the United States, Canada, Italy, Australian, the United Kingdom, Spain, Jordan, France, Germany, Denmark and Norway. A number of countries have also made non-military contributions in Afghanistan. Jordan built a hospital in Mazar-i-Sharif that has treated more than 90,000 patients to date. Russia has rebuilt a key tunnel that links Kabul with Northern Afghanistan facilitating the shipment of thousands of tons of food, medicine and supplies, and Germany is helping to rebuild the country's police sector. This clearly demonstrates that at the initial stage, in presence of real danger, the struggle against international terrorism looked like an effective glue for safeguarding cohesion of the Alliance in the 21st century.

The Search for Common Alliance Interests outside the NATO Area: the Way Ahead, Problems and Perspectives

The next incident involving a military response by some of NATO's members was again caused by the Iraqi President Saddam Hussein, who appeared to become the only person who seriously challenged the cohesion of the Alliance several times in a last decade. After a few fruitless diplomatic rounds, the United States and Britain threatened to use force against Iraq if Saddam continued to deny UN Inspectors free access to suspected weapons sites. President Bush, with an active assistance of Prime-Minister Blair assembled an international Coalition to liberate Iraqi people from Saddam's regime, disarm Iraq of its weapons of mass destruction, destroy terrorist infrastructure and enforce 17 relevant UNSC resolutions.

It's probably too early to systemize conclusions from the 2003 Iraqi military

campaign, but few observations could be already made. Like Operation Desert Storm in 1991, Iraqi Freedom was not a NATO operation, and the lessons to be learnt about NATO's out-of-area capacity are perhaps few. Most significant was the fact that, as in Albania the previous year and in the Gulf War in 1991, NATO intervention never became an issue. Operation Iraqi Freedom followed a familiar Cold War pattern of an *ad hoc* coalition of the "able and willing". However, a comparison between Operation Desert Storm and Operation Iraqi Freedom also reveals some striking differences. Whereas Operation Desert Storm was conducted by a broad international coalition with a clear mandate from the UN Security Council, the question of whether the Operation Iraqi Freedom was properly legitimized under the international law was highly contested, and important members of the 1991 coalition, such as France, Germany and Russia, did not support the new operation.

The response to the Iraqi crisis indicated some new lessons with regard to NATO's ability to act outside Europe. Despite the French-German decision not to join any military strike against Iraq and their strong opposition, the overall impression still was one of broad support from most NATO countries - 18 Allies participated in the Coalition. Contributions from Coalition member nations ranged from direct military participation, logistical and intelligence support, specialized chemical/biological response teams, over-flight rights, humanitarian and reconstruction aid, to political support. On the other hand, only few allies participated in the actual military actions, which implied that the military and financial burden had to be shared by the United States and the United Kingdom alone.

France-German decision to oppose the attacks obstructed complete allied cohesion, but the situation did not escalate into large-scale conflict. Within NAC, France's efforts to block steps to enhance Turkey's security against attack from Iraq blocked, in fact, initiatives important to the more active Alliance. It did raise the issue about NATO's decision-making process and its ability to honor its most important - Article 5 - obligation to member countries. On the other hand, the Statement of the Vilnius 10 and the letter of eight European leaders expressed full support for the US policy. Clearly, this fact demonstrates that the Alliance was very far from acting by consensus with regard to Iraqi issue.

The most significant lesson, however, was the very limited support for the operation from the rest of the world and very strong anti-military feeling within the societies of NATO member states, even in the USA. Characteristic example is a case

of Turkey - a staunch NATO ally through 40 years of Cold War, a stabilizing force in Central and Eastern Europe, and supporter of peacekeeping efforts in Bosnia, Kosovo and Afghanistan - there is no question that the US administration was deeply disappointed by the failure of the Turkish Parliament to achieve the absolute majority required to approve the transit of Turkey by American ground troops (although a majority of members voting were in favor). This decision clearly ran counter the interests of US, Turkey's most important strategic partner and ally. This case demonstrated, that concerns caused by national sensitivities (Kurdish problem) and public opinion can prevail obvious long-term national interests, making consensus building within NATO even more complex and unpredictable.

It was only the firm political will of US Administration and the absolute success of the military campaign that allowed Coalition to avoid further complications internationally, as well as inside their own countries. This case will unavoidable influence future decision making process and make any decision on NATO's out-of-area involvement a subject to much more cautious examination.

The experience analyzed above suggests that it might be difficult to identify common NATO interests even in South-Eastern Europe and the Middle East - parts of the world, where all Allies have clear and historically rooted interests. On the other hand, it was firmly established in NATO's new Strategic Concept that the Alliance will play its out-of-area role. Thus, if out-of-area operations are to become a primary NATO occupation in the future, there is a real danger that the lack of common "out-of-area" interests may slowly erode the underlying compact that binds North America to the fate of Europe's democracies.

An increased reliance on *ad hoe* coalitions of the willing is not likely to solve this problem. As NATO's then Secretary General, Javier Solana, stated at a conference on security policy in Munich in February 1998, "Our operation in Bosnia has shown that we can make most progress if we act as a unit, not as a coalition of the willing. To act in solidarity should remain the rule, not the exception".

However, whereas united action may be necessary to retain NATO cohesion, the need for a collective approach may effectively paralyze the Alliance and resentment may grow on both sides of the Atlantic over the distribution of influence and the sharing of burdens.

At the same time, together with the geographical limitations caused by a lack of common Alliance interests, the preference for UN authorization can pose equally strict geographical limitations on NATO's range of action. During the last years, NATO has made it evident through both practice and policy that UN authorization is not required for NATO operations. Whereas the perception of the legality of such unauthorized operations may vary, the resentment caused in both domestic opinions and other parts of the world is unquestionable. The inability of the UN Security Council to agree on a common policy towards domestic or international conflicts is nothing new, but rather the normal situation. The question of legitimization thus poses a serious dilemma for NATO. On the one hand unauthorized operations may undermine broad domestic support in many NATO countries and also undermine NATO's internal consensus as domestic opposition may vary between members. Another effect of NATO's disregard of other countries' objections to its new role may be the stirring of anti-western feelings in the disillusioned populations of a number of countries. On the other hand, always requiring a UN or OSCE mandate for an out-of-area operations, would entail a *de facto* Russian or Chinese veto over NATO's decision-making process.

Another major difficulty connected to NATO's out-of-area engagement is the limit to what can be achieved through use of force in inter-communal conflicts, which have been predominant during the last decade. In such conflicts, the use of force is to some extent ineffective and, in the view of many, also illegitimate. This is not a NATO problem as such, but applies equally to all countries or organizations that try to intervene in this type of conflict. However, the fact that NATO is an alliance of 26 democratic states may add some particular restraints on how force can be used.

One obvious restraint on the use of force by most NATO members is domestic opinion's low tolerance of civilian casualties and collateral damage caused by NATO's actions. Moreover, this restraint will always be well known and probably effectively exploited by any opponent. The stationing of mobile military targets inside towns and villages, or use of civilians as human shields can effectively paralyze or at least seriously hamper the effectiveness of NATO. Even though tolerance levels may rise rapidly if NATO were to engage in a war on the ground, NATO is likely to be subject to such restraints also in war-like situations. Another restraining factor on NATO's ability to use force effectively is the low tolerance of own casualties in out-of-area operations.

Other problems connected with the use of force in such situations have to do

with the characteristics of the conflicts, rather than NATO itself. The resolution of these conflicts often involves reconstruction of an entire society, but whereas force can be used to monitor or enforce a cease-fire, it is far more difficult to take military action to accomplish a nation-building process after a civil war. It is both unacceptable and ineffective to apply military force against unarmed civilians who are obstructing the peace process. The crude instrument of military force is simply not suited to this task. Moreover, providing civil security in war-torn societies has been one of the most difficult challenges in the new peace operations.

The considerations above has pointed to the many strains on NATO - on its internal cohesion, its military credibility and its relations with the rest of the world - caused by its new out-of-area involvement. Less attention has been paid to the ability of the Alliance to survive strong disagreements and repair deep rifts in its internal relations and its relations with other countries. Despite the many difficulties encountered by NATO in the performance of its new role, support of NATO membership remains high among the political establishments and public opinion in its member countries, and several new states are seeking NATO membership. It should also be kept in mind that the transformation process that NATO is currently undergoing normally would be characterized by *ad hoc* decisions and "learning by doing".

Furthermore, even though many lessons have been learned from Bosnia and Kosovo, more will be learnt from Iraq, the challenges posed by the current conflicts may not resemble the security challenges of the next decade. The fundamental question of whether NATO's members have sufficient common interests to maintain the Alliance in the absence of a unifying single external threat will to a large extent depend on the nature of these new threats, and NATO's ability to handle them.

NATO's core mission is the same today as it was at its founding. Collective defense and consultation about threats to peace and security. NATO put this mission into new practice following the 11 September terrorist attacks. No-one would have predicted that NATO's first invocation of Article 5 would have come in response to an attack hatched in Afghanistan, planned in places like Germany, Spain and Malaysia, and executed in Washington and New York. Article 5 of the NATO Treaty became real that day in a new one, and one that should surely give pause to those who question NATO's purposes. NATO's core mission has not changed. What has changed is the source of the threats to the Alliance's countries. These threats are likely to come less

from massing great armies than from small shadowy bands of terrorists. Less from strong states than from weak or failed states, including those led by aggressive dictators. Less from inside Europe than from exotic locales beyond Europe. NATO has already acknowledged that it must have the capabilities to meet threats wherever they arise. This effectively ended the in area-out of area debate that had burned up so much of Allies time and energies throughout the 1990s. A historical line has been crossed. NATO will go to the Article 5 threats wherever they are. This does not mean that NATO will be profligate or go searching for adventures. It does mean that defense in the future will be very different than defense in the past. NATO have changed and it will continue to play a critical role in defending its member societies against the real threats of modern time.

CONCLUSIONS

1. Peace support operations (PSOs) have been an instrument of foreign and security policy since the early 19th century, but have gained real importance, legitimacy and institutional basis with the end of the Second World War, after the establishment of the United Nations. Peacekeeping, as such, is not clearly defined in the Charter of the United Nations, but is a practical mechanism designed for containment of armed conflicts and facilitation of their resolution by peaceful means. It represents result of flexible and dynamic interpretation of the UN Charter, in order to meet political needs of the world community. Transition from the bi-polar to the multi-polar world and transformation of the nature of modern conflicts sets on agenda necessity of development of the next generation of peace support operations and the revision of some principles, designed for the traditional peacekeeping. Most importantly, such revision concerns principles of humanitarian intervention. Implementation of large-scale enforcement mandates goes beyond the UN capabilities. Therefore, the way ahead is delegation of more responsibilities to regional structures and setting up of an effective division of labor;

2. International law governing the right of humanitarian intervention is incomplete. International practice has evolved swiftly during the 1990s. Yet the incipient political and moral consensus that intervention is sometimes necessary to prevent human-rights violation on a major scale has not been formalized into a set of rules of international law. It is now urgent that this consensus should be transformed into law. NATO regards itself as an alliance of democratic nations, whose political system is based on the rule of law - and it has certainly been accepted as such by the new members eager to join the "club of democracies". Presumably, respect for the rule of law domestically should be joined by a similar respect for the rule of law on the international scene. Therefore issue of clear international mandate is an essential factor to be considered in any future out-of-area operation. To this end, the solution is to acknowledge that

international law has serious gaps and NATO should focus on consolidating embryonic practices into a clear and strong body of law to allow intervention on humanitarian grounds;

3. It is clear, that the preference for UN authorization can pose strict limitations on NATO's range of action. During the last years, NATO has made it evident through both practice and policy that UN authorization is not required for NATO operations. Whereas the perception of the legality of such unauthorized operations may vary, the resentment caused in both domestic opinions and other parts of the world is unquestionable. The inability of the UN Security Council to agree on a common policy towards domestic or international conflicts is nothing new, but rather the normal situation. The question of legitimization thus poses a serious dilemma for NATO. On the one hand unauthorized operations may undermine broad domestic support in many NATO countries and also undermine NATO's internal consensus as domestic opposition may vary between members. Another effect of NATO's disregard of other countries' objections to its new role may be the stirring of anti-western feelings in the disillusioned populations of a number of countries. On the other hand, always requiring a UN or OSCE mandate for an out-of-area operations, would entail a *de facto* Russian or Chinese veto over NATO's decision-making process;

4. The question of legitimization in situations where the consent of the conflicting parties is lacking represents a permanent dilemma connected to NATO's out-of-area interventions. In such cases, NATO's ability to act would become dependent on the consent of non-NATO countries, the Alliance might in fact become completely paralyzed. The bombing of the Federal Republic of Yugoslavia, which began in March 1999, had made it clear that NATO was willing to play a fully independent "out-of-area" role and to attack a sovereign state without an explicit mandate from the UN Security Council. The 1999 Strategic Concept formalized this new policy by stating, that the Alliance was "to stand ready, case-by-case and by consensus, ..., to contribute to effective conflict prevention and to engage actively in crisis management, including crisis response operations". Previous references to support of operations under the authority of the UN or the OSCE were left out, marking NATO's independence of other international organizations in this issue;

5. This study has described NATO's incremental and unplanned adoption of a new

role outside the North Atlantic treaty area. Alliance's new "out-of-area" policy has been developed through *ad hoc* responses to occurring events, and that the official policy statements were made after new policy had been put into practice on the ground. The fundamental question of whether NATO's members have sufficient common interests to maintain the Alliance in the absence of a unifying single external threat will to a large extent depend on the nature of these new threats, and NATO's ability to handle them;

6.   The main criteria upon which to decide where and when NATO should intervene in an out-of-area region, will be the strategic interests of the alliance. The more the security and stability of the alliance or the territorial integrity of its members are in danger, the more NATO should feel inclined to act. In cases where such an intervention could pose a greater risk of creating a major conflict, NATO must take into account the sensitivities and interests of the countries concerned;

7.   The question of moral justification may also be an important issue associated with NATO intervention in an out-of-area region. NATO's strategic interests combined with moral justification will likely lead to greater flexibility towards the so far dominating call for a mandate provided by the international community, although it will always be desirable and appreciated by most nations to have such an additional legitimacy;

8.   As it enters the 21st century, NATO faces a new set of strategic challenges quite different from the ones it faced in the past. Accordingly, NATO has begun to move away from its original focus on Europe and recognize that the threats facing the Alliance are more diverse and geographically distant than during the Cold War. NATO's area for non-Article 5 missions should not be limited to Europe and its periphery. It should include as well the Middle East and Magbreb regions in the medium term, so as to safeguard energy resources and lines of communications, fight terrorism or prevent the spillover of social unrest to adjacent NATO countries. However, the decision to intervene in these and other regions will be subject to consensus within the Alliance and will be undertaken on a case by case basis;

9.   This shift in emphasis was explicitly acknowledged at the Prague Summit last November. The communiqué issued in Prague noted that NATO needed to have the capability to field forces that can move quickly "to wherever they are

needed" and sustain operations over great distance, including in an environment where they might be faced with biological, chemical and nuclear weapons. This change essentially ends the "out-of-area" debate that has raged within the Alliance in the last few years. However, some in Europe oppose what they see as an effort to "globalize" NATO. They argue that NATO should remain focused on threats in the European area and its periphery. Such a view, being anachronistic and wrong-headed, fails to recognize the degree to which the nature and locus of the challenges facing Europe and the United States have changed since the end of the Cold War, and especially since the terrorist attacks of 11 September 2001;

10. It might be difficult to identify common NATO interests even in South-Eastern Europe and the Middle East - parts of the world, where all Allies have clear and historically rooted interests. On the other hand, it was firmly established in NATO's new Strategic Concept that the Alliance will play this role. Thus, if out-of-area operations are to become a primary NATO occupation in the future, there is a real danger that the lack of common "out-of-area" interests may slowly erode the underlying compact that binds North America to the fate of Europe's democracies;

11. NATO's strategic interests in more distant areas (e.g. Asia, Central Africa, and Latin America) are even less well defined. In these areas, coalitions other than NATO may be used to promote political and economic interests. Such interventions could occur on a bilateral basis, or with a group of individual nations - including NATO member states. So far, a global role of NATO is very unlikely in the short to medium term, but should not be ruled out in the longer term;

12. The change in threat perceptions following the end of the Cold War has led to different types of missions being undertaken by NATO's military forces. Although the more traditional collective defense role still remains a major priority for the Alliance, NATO military forces will have to adjust to meet the challenges of crisis management; in particular, the peacekeeping and state-building roles. One of the major difficulties connected to NATO's out-of-area engagement is the limit to what can be achieved through use of force in inter-communal conflicts, which have been predominant during the last decade. In such conflicts, the use of force is to some extent ineffective and, in the view of

many, also illegitimate. This is not a NATO problem as such, but applies equally to all countries or organizations that try to intervene in this type of conflict. However, the fact that NATO is an alliance of 26 democratic states may add some particular restraints on how force can be used;

13. Despite the new environment, NATO's core mission is the same today as it was at its founding. Collective defense and consultation about threats to peace and security. NATO put this mission into new practice following the 11 September terrorist attacks. No-one would have predicted that NATO's first invocation of Article 5 would have come in response to an attack hatched in Afghanistan, planned in places like Germany, Spain and Malaysia, and executed in Washington and New York. Article 5 of the NATO Treaty became real that day in a new one, and one that should surely give pause to those who question NATO's purposes. NATO's core mission has not changed. What has changed is the source of the threats to the Alliance's countries. These threats are likely to come less from massing great armies than from small shadowy bands of terrorists. Less from strong states than from weak or failed states, including those led by aggressive dictators. Less from inside Europe than from exotic locales beyond Europe. NATO has already acknowledged that it must have the capabilities to meet threats wherever they arise. This effectively ended the in area-out of area debate that had burned up so much of Allies time and energies throughout the 1990s. A historical line has been crossed. NATO will go to the Article 5 threats wherever they are. This does not mean that NATO will be profligate or go searching for adventures. It does mean that defense in the future will be very different than defense in the past. NATO have changed and it will continue to play a critical role in defending its member societies against the real threats of modern time.

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