

	NATO	NORTH ATLANTIC COUNCIL
	OTAN	CONSEIL DE L'ATLANTIQUE NORD

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20 July 2015

DOCUMENT
C-M(2015)0052-AS1

**IBAN SPECIAL REPORT TO COUNCIL ON THE STEPS NEEDED TO IMPROVE
ACO AND NSPA MANAGEMENT OF CONTRACTOR SUPPORT TO OPERATIONS**

ACTION SHEET

On 17 July 2015, under the silence procedure, the Council noted the IBAN report IBA-AR(2014)11 attached to C-M(2015)0052 and agreed the recommendations contained in the RPPB report.

(Signed) Jens Stoltenberg
Secretary General

NOTE: This Action Sheet is part of, and shall be attached to C-M(2015)0052.

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14 July 2015

NOTICE
C-M(2015)0052
Silence Procedure ends:
17 Jul 2015 16:00

IBAN SPECIAL REPORT TO COUNCIL ON THE STEPS NEEDED TO IMPROVE ACO AND NSPA MANAGEMENT OF CONTRACTOR SUPPORT TO OPERATIONS

Note by the Secretary General

1. I attach the International Board of Auditors for NATO (IBAN) Special report to Council on the Steps Needed to Improve ACO and NSPA Management of Contractor Support to Operations.
2. The IBAN conducted a review of the ACO and NSPA contractor support provided to the International Security Assistance Force (ISAF) by ACO and the NSPA, with the objective of assessing the extent to which these two organisations effectively and efficiently procure and manage this support. The examples reviewed by the IBAN illustrate relative strengths and weaknesses associated with the ACO and NSPA contractor support to operations management models. The IBAN makes a number of recommendations to enhance contractor support to operations.
3. The IBAN report has been reviewed by the Resource Policy and Planning Board (RPPB), which has provided its own report with conclusions and recommendations to Council.
4. I consider that no further discussion regarding this report is required. Consequently, **unless I hear to the contrary by 16:00 hours on Friday, 17 July 2015**, I shall assume that the Council has noted the IBAN report IBA-AR(2014)11 and agreed the recommendations contained in the RPPB report.

(Signed) Jens Stoltenberg

2 Annexes

Original: English

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**IBAN SPECIAL REPORT TO COUNCIL ON THE STEPS NEEDED TO IMPROVE
ALLIED COMMAND OPERATIONS (ACO) & NATO SUPPORT AGENCY (NSPA)
MANAGEMENT OF CONTRACTOR SUPPORT TO OPERATIONS**

Report by the Resource Policy and Planning Board (RPPB)

References: (a) IBA-A(2014)149 & IBA-AR(2014)11
(b) BC-D(2014)0187-FINAL

Background

1. The present report by the Resource Policy and Planning Board (RPPB) contains the RPPB's observations and recommendations concerning the International Board of Auditors for NATO (IBAN) Special Report to Council on the Steps needed to improve Allied Command Operations (ACO) & NATO Support Agency (NSPA) Management of Contractor Support to Operations (reference (a)).
2. The report is based on the full review of the IBAN report provided by the Budget Committee (BC) (reference (b)).

IBAN report summary and recommendations

3. The IBAN conducted a review of the ACO and NSPA contractor support provided to the International Security Assistance Force (ISAF) by ACO and the NSPA, with the objective of assessing the extent to which these two organisations effectively and efficiently procure and manage this support.

Main findings

4. *NATO has relied on contractor support to operations to meet needs in Afghanistan*
 - 4.1. NATO defines contractor support to operations as deployed support to operations provided by commercial entities, assured for the Commander, and optimised to be the most efficient and effective use of resources. ACO may procure and manage contractor support to operations directly, or task NSPA to manage it on the command's behalf. ACO- and NSPA-managed contractual services and supplies, including contractor support to operations for a wide range of activities, comprised 79 percent of the ISAF budget in 2012.
5. *ACO contracting is operationally responsive, but the command lacks capacity for effective management*
 - 5.1. ACO contracting can be operationally responsive, and the IBAN did not see evidence that operational needs were not met. However, an insufficient number of experienced contracting staff limits ACO's ability to effectively manage and oversee complex contracts. As a result, some of the same risks the IBAN has previously reported on in the context of its special report on the ISAF Fuel BOA remain. The IBAN found a considerable number of weaknesses, including overpayments for the HQ ISAF catering contract estimated at 2.2 million Euro (as at June 2014), for which the IBAN is making specific recommendations. In the IBAN's opinion, ACO-managed support should be

considered appropriate for relatively simple requirements, such as ordering supplies to support psychological operations¹, or for those services that do not entail complex management and oversight activities. In addition, the IBAN sees value in continued command structure management of transportation contracts. The nature of these services requires the involvement of a wider range of staff within the command structure, diminishing risk. For all other services, the IBAN sees the need for direct management by ACO of contract support to operations only for those requirements in which urgency and lack of other options outweighs the risks of limited contract management.

6. NSPA has the capacity to effectively provide contractor support to operations, but policy adjustments could increase efficiency

6.1. In the IBAN's opinion, NSPA provides effective solutions to manage contractor support to operations requiring complex contract management and oversight, such as catering and Air Port of Debarkation services. In addition to delivering the needed services, NSPA demonstrated effective contract management and assurance that the contractors adhere to the terms and conditions of their contracts. In addition, NSPA achieves better procurement outcomes and economies of scale, which to some extent balances NSPA's administrative costs, especially for large-scale procurements. As such, in the IBAN's opinion NSPA should be the preferred provider for delivering complex integrated commercial support solutions for deployed operations. However, as the IBAN recommends, changes to specific policies in the areas of manpower, travel, and individual requirements would improve NSPA's ability to deliver services to ACO more efficiently and in accordance with the NATO principle of "costs lie where they fall".

7. Limitations in the ACO/NSPA customer-provider relationship introduce some financial risk

7.1. Experience in ISAF has shown that in some cases ACO has faced challenges being an "intelligent customer". In particular, ACO has relied on NSPA to define some needs, particularly those related to assurance and supporting management information, with cost implications. In addition, ACO has not fully linked its approval of NSPA manpower to requirements. The approval of NSPA as Contract Integrator and SHAPE's preference for the Agency to manage complex procurements will likely enhance NSPA's role in planning and providing contractor support to operations (CSO) to support NATO exercises and future operations. ACO's logistics and financial communities, among others, have the collective responsibility to determine the right balance among various risks. As the IBAN recommends, this needs to occur through more active definition of the full range of requirements, clearer direction to NSPA, and better monitoring of the results. It also entails taking better advantage of existing governance mechanisms, such as the SHAPE manpower review, to link resources with requirements.

¹ Combined Joint Psychological Operations Task Force (CJPOTF) is an ISAF organisation responsible for achieving operational objectives through the use of various advertising media and the provision of goods, such as radios and winter clothes, calculated to benefit the population's needs.

IBAN overall conclusion and recommendations

8. The examples reviewed by the IBAN illustrate relative strengths and weaknesses associated with the ACO and NSPA contractor support to operations management models. In the IBAN's opinion, ACO-managed contractor support to operations is most appropriate for procurement activities that do not require complex management and oversight. Noting that this does not mean excluding ACO-management of such contracts, but that due note needs to be taken of the need for sufficient, qualified personnel. While NSPA provides good solutions for complex contractor support to operations, it requires an intelligent customer to effectively balance cost and risk. This need will remain as long as the Nations continue to prioritise force generation and keep NSPA as a customer-funded entity.

9. The IBAN makes the following recommendations:

9.1. That Joint Force Command Headquarters Brunssum (JFCBS) and ISAF address weaknesses in JFCBS and ISAF contracts (5 specific recommendations).

9.2. ACO to clarify specific training requirements and post descriptions for ACO Contracting Officer's Technical Representatives.

9.3. Nations to provide qualified contract management personnel to meet NATO force structure commitments, particularly in leadership positions.

9.4. NSPA to request, and Nations to consider, policy changes to help optimise efficiency of NSPA-provided contractor support to operations (3 specific recommendations).

9.5. For future projects, ACO to clearly define requirements for assurance and supporting management information and to direct NSPA accordingly.

9.6. ACO to review and revise Key Performance Indicators to ensure they accurately reflect customer needs for management information.

9.7. ACO to take steps to improve annual review and approval of NSPA manpower requests for SHAPE-funded projects.

10. The IBAN considers it necessary for the entities to develop an action plan for concrete steps to be taken in respect of each of the recommendations and proposes that Nations invite ACO and the NSPA to provide this information on a mutually agreeable schedule.

ACO/JFCBS comments and actions taken

11. SHAPE concurred with the IBAN's recommendations directed towards ACO. SHAPE also expressed some higher-level concerns about how the report characterised cost and risk, the general applicability of the IBAN's conclusions and the wording in some of the IBAN's recommendations.

12. At the 1 October 2014 meeting of the BC, ACO stressed the fact that the Special report by the IBAN on the ISAF Fuel BOA already contained a set of relevant identical

recommendations which have already been addressed by ACO and are under implementation, including an update of the Bi-SC procurement directive².

13. On 5 March 2015, the ACO Financial Controller briefed the Board on their continued follow-up of the IBAN observations; in particular the recommendations to address specific contract weaknesses, improvements made by ACO with regard to contracting activities and ACO interactions with NSPA in theatre.

NSPA comments and actions taken

14. NSPA concurred with all the IBAN's recommendations directed towards NSPA. The NSPA has developed an action plan³ for concrete steps to be taken in respect of each of the IBAN's recommendations.

15. On 5 March 2015, NSPA provided the Board with an update on concrete steps taken in respect of the IBAN recommendations, in particular on the recommendation regarding NSPA individual requirements policy.⁴

RPPB Conclusions

16. The RPPB appreciates this IBAN Special report to Council on the Steps needed to improve ACO & NSPA Management of Contractor Support to Operations. The issues raised in the report regarding contractor support to operations are important to the Alliance.

17. The RPPB recognises that support to operations, in many instances, must be organised and implemented at very short notice and under challenging conditions. In the past, ACO have responded to these tasks to the best of their ability and, while meeting the mission objectives in a timely manner and without up-front costs to Nations, severe shortages in qualified contracting personnel have prevented ACO from effectively managing and overseeing the contracts referred to in the IBAN report. The RPPB notes that these management shortcomings have, in some cases, resulted in overpayments to the contractor.

18. With regard to contracts implemented and managed by the NSPA, the RPPB notes that, according to the IBAN, apart from meeting the operational needs, the agency has managed these more effectively and has been able to achieve economies of scale. However, certain restrictions regarding deployment policies for NATO civilian personnel⁵, NSPA travel restrictions regarding commercial travel for employees and the agencies policy for attributing administrative costs for individual requirements, as laid out in the IBAN report, would need to be addressed to improve the NSPA's ability to deliver services to ACO and Nations more efficiently. This is especially important since establishing the NSPA as a contract integrator and giving it preference to manage complex procurements could lead to an increased use by ACO of the NSPA in providing contractor support to future exercises and operations.

² C-M(2014)0022, BC-D(2014)0251-REV1

³ Reference: G/2014/284, dated 11 November 2014.

⁴ Letter by the Chief of Staff NSPA with reference F/2015/071, dated 3 March 2015.

⁵ C-M(2005)0041

19. The RPPB notes that most of the difficulties ACO experienced in managing large contracts stem from a lack of manpower, both in terms of numbers and skills, in the contracting area. Based on the BC report, the RPPB understands this to be the result of consecutive PE reviews which have resulted in a gradual deterioration in ACO's capability to prepare contracts, to properly evaluate cost proposals and to supervise contract execution. ACO has to rely on Nations filling these positions and is restricted by a PE/CE ceiling, while these restrictions do not apply to NSPA which disposes of fully staffed teams of experienced contracting personnel.

20. While ACO appears to not need additional staff and governance to play its role as an intelligent customer, both in terms of requirement setting and management, they have difficulties in properly exercising this role and thus heavily rely on NSPA's support in the area of Logistics Planning. The RPPB notes that the BC considers this reliance on NSPA to be not without financial risks. It is essential that logistics planning be carried out by ACO rather than the agency, to avoid potential conflicts of interest and to be able to balance cost and risk. ACO needs to fully assume their role as an intelligent customer in all areas. The RPPB also recalls that the NSPA and the NCIA have commissioned a joint study to look into logistics support and governance arrangements between the two agencies.

21. The RPPB notes the IBAN's view that, given ACO's manning problems and the fact that the NSPA disposes of fully manned and highly skilled contracting personnel, the NSPA appears to be more suitable to deliver and manage more complex, integrated commercial support solutions for operations in certain areas such as catering. While both the RPPB and the BC have some difficulty in fully concurring with the IBAN's conclusions in this respect in the absence of a cost/risk analysis, the RPPB notes the IBAN's explanation that they considered the conduct of such an analysis to be beyond the audit scope because it would also require the inclusion of costs to nations for military manpower. The IBAN conclusions were driven by the assumption that the availability of fully manned and highly skilled contracting staff, as is the case for the NSPA, normally reduces the risks in contract management and oversight considerably.

22. The RPPB notes the explanation provided by the IBAN that the NSPA charges a flat 5% fee for administrative costs without tracking the actual level of effort involved in providing the services. The IBAN considers that the 5% fee probably does not cover the entirety of the agency's actual costs and therefore common funding is used to cover the delta, which, in the IBAN's view, violates the principle of "costs lie where they fall"⁶.

23. The RPPB notes that, as invited by the IBAN, NSPA has developed an action plan for concrete steps to be taken in respect of each of the IBAN's recommendations. Regarding ACO, the RPPB notes ACO's continued follow-up of the IBAN recommendations. The RPPB also recalls the recommendations made concerning the ISAF fuel contracts⁷ and notes the actions taken by ACO to improve the acquisition of services and management of contracts for operational support. The RPPB would invite

⁶ Noting that a minimal share of NSPA revenues are from common funding (~15%), and also that NSPA considers the 5% fee sufficient and the level of effort not worth the control mechanism required to balance fees with actual expenditures.

⁷ C-M(2014)0022

both NSPA and ACO to each provide the RPPB with a progress report on actions taken by end June 2015.

24. The RPPB concludes that the subject IBAN Special Report to Council does not contain information which, according to the NATO Policy on Public Disclosure of NATO Information, shall be withheld from public disclosure, and in line with the agreed policy in PO(2015)0052, recommend that Council agree to the public disclosure of the subject IBAN report.

RPPB Recommendations

25. The Resource Policy and Planning Board (RPPB) recommends that Council:
- (a) note the IBAN report IBA-AR(2014)11 along with the present report;
 - (b) endorse the conclusions of the RPPB as outlined in paragraphs 16 through 24;
 - (c) invite ACO to fully assume their role as an intelligent customer in all areas;
 - (d) invite ACO to resolve the issue of overpayments to the HQ ISAF catering contractor no later than one month after Council approval of this report;
 - (e) invite the IBAN to consider undertaking audits of major Resolute Support Mission contracts while these are still active as well as continuing to provide similar type of audits on support provided for future operations;
 - (f) note that the RPPB, with the assistance of the BC, will follow-up by the end of 2015 on the concrete steps taken by ACO and the NSPA in addressing the IBAN's recommendations, including in the context of the RPPB's review of the 2013 IBAN financial statement audits of the two entities;
 - (g) in line with the agreed policy in PO(2015)0052, agree to the public disclosure of the IBAN report IBA-AR(2014)11.

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Overview of ACO and NSPA steps taken in response to the IBAN recommendations⁸

Nr	IBAN recommendation	ACO/NSPA steps taken	Timeline
1	For the HQ ISAF catering services contract, the Board recommends that JFCBS request the firm to clarify the extent to which the price bands applicable to troop contributing Nations excluded the number of meals consumed by contractor personnel. JFCBS should then negotiate price adjustments to reflect the full amount overpaid. The Board further recommends that ACO use all available means to recover the total amount overcharged to the Nations as a result of the incorrect application of the dining facility amortization charge.	Ongoing dispute with Supplier, however overcharged amount has been withheld (2.2 MEUR) from supplier	Meeting supplier March 2015
2	The Board recommends that JFCBS ensure that all parties adhere to the terms and conditions of the ISAF-HQ catering services contract by (1) obtaining the contractor's Quality Control Surveillance Plan, (2) conducting oversight activities to ensure that the contractor adheres to this plan and (3) maintain the appropriate records of the results.	Quality Control surveillance plans obtained (April 2014) – Nomination of a COTR for catering services	Completed
3	The Board recommends that the JFCBS P&C Chief clarify the requirements for the in-theatre management and retention of contractor performance records.	Contract files to be maintained in ACO policy letter 08/10 Contract file maintenance (5 years)	Shipping of documents is ongoing, files to be kept at JFCBS
4	The Board recommends that ISAF take steps to ensure that the services are provided under enforceable contracts in all cases.	Three way matching principle Contingency training course March 2015	Completed

⁸ Responses from NSPA dated 3 March 2015 (reference: F/2015/071) and 11 November 2014 (reference: G/2014/284); response from ACO dated 5 March 2015 (presentation to the RPPB).

5	The Board recommends that ACO clarify the specific training requirements for personnel assigned the COTR role and include the relevant roles and responsibilities in the appropriate post descriptions.	Course developed by ACO based on course provided by Defence Acquisition University – Included in Contingency training course organized by ACO	Completed
6	<ul style="list-style-type: none"> - The Board recommends that the Nations meet their commitments to provide personnel, particularly key leadership, who meet the requirements stated in NATO policy and regulations. - The Board further recommends that the Nations consider restricting bidding on contracting-related posts to those among them which have the procurement career field resident within their force structures. 		
7	<ul style="list-style-type: none"> - The Board recommends NSPA assess National and private sector practices to determine the optimal length of deployment time for personnel primarily responsible for duties in a conflict zone, considering the need for efficiency balanced with the need to continue to attract appropriately qualified and experienced staff. - To optimize the balance between reach-back and forward-deployed staff and save costs to the Nations, the Board further recommends that for future projects NSPA request, and the Nations consider, an exception to the NATO civilian deployment policy for NSPA logistics operations staff with deployability clauses in their 	<p><u>Background</u> Project manning and its current balance between reach-back and forward deployed staff is based on the Military Minimum Requirement (MMR) approved by the MC, RPPB and BC for the project and in accordance with the NAC approved policy for the deployment of civilians.</p> <p><u>Future Operations</u> As a benchmark, NSPA will review other relevant international bodies' personnel regulations. A review of current NATO civilian deployment policy will be conducted and the findings will be assessed. In doing so, NSPA will</p>	<p><u>Actions:</u></p> <ol style="list-style-type: none"> 1. Mid Jan 15 2. End Feb 15 3. End Feb 15 4. End March 15 5. End April 15

	<p>contracts.</p>	<p>review the balance of the type of manpower (such as consultants support) as well as the best way forward to optimize the balance between reach-back and forward deployed staff. The intent will be to reduce deployment rotation where and when possible. The risk is that more reliance on consultants will reduce personnel total knowledge of NSPA internal procedures and policies. A proper balance between full time and consultants employees is important to ensure optimal effectiveness.</p> <p><u>Actions</u></p> <ol style="list-style-type: none"> 1. Obtain details of practice in other NATO bodies 2. Assess practice outside NATO 3. Investigate feasibility and costs of alternative resourcing options 4. Undertake risk assessment 5. Seek NAC approval if policy change recommended 	
<p>8</p>	<p>To save costs to the Nations, the Board recommends NSPA consider aligning its personnel deployment policy for transportation to Afghanistan with NATO Headquarters policy.</p>	<p>Following a careful review during a recent visit to KAIA (Kabul International Airport), using the South Terminal for both his arrival and departure, the General Manager has approved the use of the South Terminal due to the improved security situation and overall efficiency of</p>	<p>Completed</p>

		travel for NSPA. Effective immediately, the standard option is the use of the South Terminal at KAIA for mid-tour (R&R) and end of tour Duty Travel. This terminal may also be used for initial arrival, with a current Afghan Visa. The alternative will only be allowed by leadership approval.	
9	The Board recommends that NSPA review its policy for meeting individual requirements, to include how fees are assessed, to ensure that NATO common funds are not used to pay for National requirements. The Board further recommends that NSPA ensure that it has exhausted all means to include these requirements in existing contracts to minimize additional costs associated with repetitive mobilizations.	The Agency is completing a detailed analysis of relevant data for the years 2010 through 2014, to confirm that the existing policy for meeting ISRs is indeed fair, reasonable and effective. This analysis will be formalized as a report NLT the date indicated.	End Feb 15
10	When tasking NSPA, the ACO logistics, financial and other communities, as appropriate, should ensure that the level of assurance and supporting management information are clearly defined alongside the more typical military requirements. As the contract integrator responsible for providing options, NSPA should present management, monitoring and oversight options in terms of cost and risks. The command structure should then select elements of the management model based on internal assessments of risk and affordability and clearly direct NSPA accordingly.	ACO has been negotiating with NSPA a LSA for Contract Integrator	Final LSA CI draft sent to NSPA on Dec 2014
11	To effectively monitor NSPA's implementation of ACO-directed tasks, the Board recommends that JFCBS and NSPA review and revise, as necessary, the KAIA LSA KPIs to	New MoA has been developed between ACO and NSPA (final approval at NSPA ASB level) – Revision of LSA for KAIA	Completed

	<p>ensure that they accurately reflect the information JFCBS needs to make its management decisions. To economize resources, the Board further recommends that this effort take place alongside other ongoing efforts to develop KPIs, such as for the Contract Integrator LSA, to ensure a consistent approach that can be applied to future arrangements.</p>	<p>(new KPIs included)</p>	
<p>12</p>	<ul style="list-style-type: none"> - The Board recommends that SHAPE approve all NSPA manpower by project, including personnel dedicated to cover the National portion, based on the appropriate mix of indefinite duration, definite duration, and consultant contracts. - The Board further recommends that SHAPE ensure that personnel with expertise in assessing manpower needs, such as the SHAPE personnel management community and the requirement holder's staff, are fully involved in all reviews of NSPA manpower requests. - The Board further recommends that the results of the manpower review fully document the linkage between operational requirements and need for specific NSPA NATO civilian and consultant posts. 	<p>Foreseen – Next meeting scheduled in May 2015 with J1 participation</p>	<p>Completed</p>