7. Security sector reform and NATO and EU enlargement

MARINA CAPARINI*

I. Introduction

Security sector reform (SSR) is a relatively new concept that now shapes international programmes for development assistance.[1] Originating within the development community, the concept is based on the assumption that democracy and sustainable socio-economic development—including the objectives of poverty reduction and social justice—cannot be achieved without meeting the basic security needs of individuals and communities. Recognizing that it is often state security institutions themselves that threaten the security of individuals and society, whether through inefficiency, unprofessionalism, inadequate state regulation, corruption or human rights violations, SSR focuses on the sound management and accountability of the security sector consistent with the principles and practices of good governance. The objective of SSR is to achieve efficient and effective security institutions that serve the security interests of citizens, society and the state, while respecting human rights and operating within the rule of law and under effective democratic control.[2]

The security sector includes all the bodies whose main responsibility is the protection of the state and its constituent communities.[3] It includes core structures such as armed forces, police and intelligence agencies as well as those institutions that formulate, implement and oversee internal and external security policy.

The good governance objectives promoted by SSR—democratic accountability, civilian control of security structures, clear demarcation between internal and external security mechanisms and approaches, the rule of law, an independent judiciary and a strong civil society—are implicitly based on 'good

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[1] There is as yet no consensus on the precise definition of security sector reform. See, e.g., Hendrickson, D., *A Review of Security-Sector Reform*, Working Paper no. 1 (Conflict, Security and Development Group, Centre for Defence Studies, King's College, University of London: London, 1999), p. 29, available at URL <http://csdg.kcl.ac.uk/Publications/assets/PDF%20files/Working%20paper%20number%201.pdf>; and Brzoska, M., 'The concept of security sector reform', ed. H. Wulf, *Security Sector Reform,* BICC Brief 15 (Bonn International Center for Conversion: Bonn, 2000), pp. 6–13, available at URL <http://www.bicc.de/general/brief15/content.html>.

[2] Hendrickson, D. and Karkoszka, A., 'The challenges of security sector reform', *SIPRI Yearbook 2002: Armaments, Disarmament and International Security* (Oxford University Press: Oxford, 2002), pp. 175–201; and United Nations Development Programme (UNDP), 'Democratizing security to prevent conflict and build peace', *Human Development Report 2002: Deepening Democracy in a Fragmented World* (Oxford University Press: New York and Oxford, 2002), pp. 85–100.

[3] The definition of the security sector is discusssed in Hendrickson and Karkoszka (note 2), p. 179.

practices' and norms, rules and laws governing behaviour, that have evolved within mature democratic states, primarily those of Anglo-American and West European democracies.[4] These norms and good practices in governance of the security sector are increasingly being identified and laid out by a range of international actors. They include international organization*s*—the United Nations, the United Nations Development Programme (UNDP) and the Organisation for Economic Co-operation and Development (OECD);[5] regional organizations—the European Union (EU), the Council of Europe, the Organization for Security and Co-operation in Europe (OSCE), and the North Atlantic Treaty Organization (NATO);[6] various NGOs; and national governments.[7] The attempts to specify advanced norms and good practices within and among democratic polities reflect the implicit assumption in security sector reform of the potential influence of such norms on relations between states, and hence on international peace and security.[8] As a concept and guide for policy, SSR has many of its strongest supporters among development experts and the British Department for International Development (DFID).[9] These have been in the vanguard of defining the parameters of SSR

[4] Raymond, G., 'Problems and prospects in the study of international norms', *Mershon International Studies Review*, vol. 41 (1997), pp. 205–45.

[5] See, e.g., Code of Conduct for Law Enforcement Officials, adopted by the United Nations General Assembly in Resolution 34/169, 17 Dec. 1979, URL <http://193.194.138.190/html/menu3/b/h_comp42.htm>; Organisation for Economic Co-operation and Development (OECD), Development Assistance Committee (DAC), *The DAC Guidelines on Conflict, Peace and Development Cooperation* (OECD: Paris, 1997); United Nations Development Programme (note 2); and Ball, N., 'Enhancing security sector governance: a conceptual framework for UNDP', 9 Oct. 2002, URL <http://www.undp.org/erd/jssr/docs/UNDP_SSR_Concept_Paper_Oct_9_2002.DOC>.

[6] See, e.g., OSCE Code of Conduct on Politico-Military Aspects of Security, 1994, URL <http://www.osce.org/docs/english/pia/epia93-4.pdf>; Council of Europe, Parliamentary Assembly, Recommendation 1402 (1999), 'Control of internal security services in Council of Europe member states', *Official Gazette of the Council of Europe*, Apr. 1999, available at URL <http://assembly.coe.int/Main.asp?link=http://assembly.coe.int/asp/search/pasearch.asp>; and Council of Europe, Committee of Ministers, Recommendation Rec 2001 (10), 'The European Code of Police Ethics', adopted on 19 Sep. 2001, URL <http://cm.coe.int/ta/rec/2001/2001r10.htm>.

[7] See, e.g., 'The Johannesburg Principles on National Security, Freedom of Expression and Access to Information' (Article 19, the Global Campaign for Free Expression: London, Nov. 1996), URL <http://www.article19.org/docimages/839.htm>; Ball, N., *Spreading Good Practices in Security-Sector Reform: Policy Options for the British Government* (Saferworld: London, Dec. 1998), URL <http://www.saferworld.co.uk/pubspread.htm>; Chalmers, M., *Security-Sector Reform in Developing Countries: An EU Perspective* (Saferworld/University of Bradford: Bradford, Jan. 2000); Lilly, D., Luckham, R. and von Tangen Page, M., *A Goal Orientated Approach to Governance and Security Sector Reform*, (International Alert: London, Sep. 2002), available at URL <http://www.international-alert.org/pdf/pubsec/Goa.pdf>; and British Department for International Development (DFID), *Understanding and Supporting Security Sector Reform* (DFID: London, June 2002), available at URL <http://www.dfid.gov.uk/Pubs/files/supporting_security.pdf>.

[8] See, e.g., assumptions concerning the ability of democracies to resolve disputes among themselves without resorting to war (the NATO injunction in its pre-accession criteria for aspiring members to resolve territorial disputes peacefully), or the evolution of regimes to address common problems among states (the emerging European Union internal security regime, described later in this chapter).

[9] See, e.g., British Department for International Development (DFID), *Security-Sector Reform and the Management of Military Expenditure: High Risks for Donors, High Returns for Development, Report on an International Symposium sponsored by the UK Department for International Development, London, 15–17 February 2000* (DFID: London, June 2000), available at URL <http://www.dfid.gov.uk/Pubs/files/ssrmes_report.pdf>; Cooper, N. and Pugh, M., *Security Sector Transformation in Post-Conflict Societies,* CSDG Working Paper no. 5 (King's College: London, 2002); and British Department for International Development (DFID), (note 7).

and encouraging its application as a policy agenda, especially to states in Africa and Asia.

Security sector reform is one of several concepts that have been developed in the post-cold war environment to deal with the complexity of contemporary security concerns. It shares with the concept of 'human security', for example, a concern for the welfare and safety of individuals, groups and society.[10] However, the area of SSR concern is the state's capacity to provide effective and accountable management of national security. It is state-centric in its focus on state institutions, legal and regulatory frameworks, and security policy, without necessarily prioritizing military security or dismissing the public security requirements of individuals and groups within society.

Nevertheless, in various developing countries there exist non-statutory security forces which may have arisen from the state's inability to meet local community security needs and whose roles are not covered by national legislation. Similarly, guerrilla forces and private armies may operate and challenge state authority. Alternatively, the state may condone the provision of security by private firms or may receive reform assistance through foreign private contractors. In each of these cases, SSR must take into account the non-statutory security forces, whose presence may signal deficiencies in the state's near-monopoly over the application of force and in its capacity to protect the state and communities within it, or the de facto devolution of some of the state's responsibility to provide security.

When pursued within the Euro-Atlantic area, SSR has the same goals of good governance, efficiency and accountability as elsewhere in the world, but within a very different environment. Indeed, it has not been widely used as an operational concept within this region until very recently. Earlier in the 1990s, security reform objectives in the newly democratic Central and East European (CEE) states were usually seen only in terms of democratic control of armed forces, defence reform and/or defence modernization. Today, there is a greater appreciation that security reform also includes policing, border management and the judiciary. One reason for the shift in approach was that, at least from 1993–94 onwards, gaining membership of NATO and the EU came to dominate the foreign policy agendas of most CEE states, with significant implications for external leverage on their SSR processes. To achieve NATO entry they had to take measures not only of *restraint* and *reduction* in the military field but also of *transformation* and *enhancement* of national security capabilities. In parallel, the EU demanded from its candidates not just proof of their democratic credentials but also precise performance standards in a number of fields of non-military security. SSR thus became one of an interlocked set of

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[10] See, e.g., Human Security Network, URL <http://www.humansecuritynetwork.org/>; and *Bibliography on Human Security* (Harvard Program on Humanitarian Policy and Conflict Research: Cambridge, Mass., Aug. 2001), URL <http://www.hsph.harvard.edu/hpcr/events/hsworkshop/bibliography.pdf>. The concept of human security has been criticized for the use of excessively broad and vague definitions, as undermining its analytical utility for researchers and its effectiveness as a guide for policy makers. See, e.g., Paris, R., 'Human security: paradigm shift or hot air?', *International Security*, vol. 26, no. 2 (fall 2001), pp. 92–93.

change-oriented objectives in which it sometimes played the role of an end in itself and sometimes that of a means. The rather sharp division of different parts of the SSR agenda between the institutions of NATO and the EU, complicated further by their differing memberships and enlargement choices, also stands in contrast to the frameworks for pursuing SSR elsewhere.

The obvious reason to review and reassess the SSR achievements in Europe is the fact that seven of the CEE states undergoing SSR will join NATO and eight will join the EU in 2004. Simultaneously, however, a new agenda is being imposed on all the members and members-in-waiting of the two institutions by the policy challenges of counter-terrorism, the proliferation of weapons of mass destruction, and responses to 'rogue' states, or 'states of concern'.[11] Both NATO and the EU have been required urgently to develop new policies and instruments directed at these and other new-style, transnational and asymmetrical threats. The general trend of these measures is to enhance members' active as well as defensive military capabilities, and the control and enforcement capacity of non-military security organs.

Concern has been expressed by sectors of opinion in both NATO and the EU about the risk that this skewing of the agenda could weaken the protection of fundamental liberties and basic features of democracy within the institutions' own territory. If it did, new members would find it particularly ironic that their SSR progress was being partly reversed or undermined, just as they achieved formal membership in the two pre-eminent organizations of Western democracies. Keeping track of this potential problem and seeking ways to restore the balance is meanwhile being made more complicated by the fact that the new agenda tends to cut across familiar divisions of responsibility for the various dimensions of security in Europe. The formerly clear military/civilian, external security/internal security dichotomy between NATO and the EU is increasingly blurred, as are the traditional dividing lines between what the West has been accustomed to regard as 'military' and 'police' functions.[12]

The sections below examine these developments and conundrums in more detail, first in the NATO and then in the EU context. Section III evaluates NATO's SSR achievements in Central Europe up to 2002 and the potentially cross-cutting impact of changes introduced in the alliance during the year. Section IV examines the possible contradictions between the EU's justice and home affairs (JHA) policies and the SSR agenda. Section V deals briefly with outstanding challenges for NATO and the EU regarding SSR in the regions neighbouring their newly expanded territory. Section VI presents the conclusions.

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[11] See also the Introduction and chapter 1 in this volume.

[12] The distinctions are blurred at the operational level by proposals to use military force in counter-terrorist strikes and by the new interest in police components for international peace operations (see chapter 6 in this volume) and at the institutional level by the EU's development of a military crisis-management capability and by NATO's new interest in such topics as nuclear, biological and chemical weapon protection, relevant also to domestic security. There is also now an internal discussion in NATO about incorporating SSR as a potential topic in the Partnership for Peace programme, reflecting the wider acknowledgement that, since the terrorist attacks of 11 Sep. 2001, it has become necessary to broaden the scope of reform and reform assistance beyond the military.

II. Repercussions of the enlargements on security sector reform

NATO and the EU are in the process of admitting new members, mainly from Central Europe.[13] NATO announced at its Prague Summit, held on 21–22 November 2002,[14] that it would invite Bulgaria, Estonia, Latvia, Lithuania, Romania, Slovakia and Slovenia to join the alliance. These seven states would join the three Central European countries admitted in the first wave of enlargement—the Czech Republic, Hungary and Poland. At the Copenhagen European Council meeting of 12–13 December 2002, the EU followed with the decision to admit the Czech Republic, Cyprus, Estonia, Hungary, Latvia, Lithuania, Malta, Poland, Slovakia and Slovenia as full members by 2004.[15] (Bulgaria and Romania were given a somewhat later date to aim for, and a process was laid down for moving towards accession negoti-ations with Turkey.) These dual processes of enlargement are influencing the reform processes of security sectors in candidate countries in distinct ways.

Both organizations apply pressure and incentives, and provide guidance and assistance for the restructuring of elements of the security sectors of member and applicant states. Both have been instrumental in promoting security sector reform, in practice if not in name, in the transitional, post-conflict and devel-oping states.[16] Because NATO and EU membership are valued highly by the governments of CEE states, these organizations wield considerable influence over which issues and structures are tackled in the domestic reform processes of applicant states. The 'carrot' of eventual membership is a significant source of leverage. Both organizations deal with components of the security sector and increasingly acknowledge the interrelationships between these compo-nents and the need to coordinate them in order to effectively address the new security environment. In addition, both declare a fundamental concern with the democratic control, transparency and accountability of the security sectors with which they deal.

The impact of NATO and EU enlargement on the security sectors of their member and candidate states is made more complicated by the simultaneous efforts of NATO and the EU, referred to above, to refocus and extend their functions within the wider security field. The ongoing institutional transforma-tions are further complicated by the surge in tensions in transatlantic relations over the specific issue of Iraq, especially as the governments of the new Cen-tral European members have often been seen (and have sometimes confirmed this by their actions) to be more sympathetic to the US vision.

These multilateral institutions, overlapping in terms of membership and converging in terms of security activities, are influencing the reform of the

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[13] See also chapter 1 in this volume.

[14] See URL <http://www.nato.int/docu/comm/2002/0211-prague/index.htm>.

[15] See URL <http://europa.eu.int/comm/copenhagen_council_20021212/index_en.html>.

[16] Greene, O., *International Standards and Obligations: Norms and Criteria for DCAF in the EU, OSCE and OECD Areas*, DCAF Working Paper no. 88 (Centre for the Democratic Control of Armed Forces, DCAF: Geneva, Oct. 2002), p. 4, URL <http://www.dcaf.ch/publications/Working_Papers/88.pdf>, also in Edmunds, T. and Germann, W., *Criteria of Success in Security Sector Reform* (Nomos: Baden-Baden, 2003).

security sectors of both member and aspirant states. This is particularly true of the CEE states, whose leaders and people seek to identify with, or 'return to', Europe. However, it is worth bearing in mind that the aspirant states are vulnerable to the political dynamics and internal agendas within each institution. Guidance, influence and pressure for SSR may consequently suffer in terms of rationality, focus and coherence. Once the new members are in NATO and the EU, moreover, it is an open question whether they will continue to coordinate among themselves and respond in broadly parallel terms to issues with normative overtones, including those of the reform and transformation agenda. If they do not, this will have implications not only for how the institutional agenda develops but also for future security relations among them.

III. NATO enlargement: challenges of 'defence reform'

Preparing the first post-cold war enlargement

The prospect of NATO membership has been an important incentive for reforms in the defence sector of aspirant states in the period leading up to membership. Establishing democratic civilian control of the military was identified as one of the basic political pre-accession criteria of enlargement in the 1995 *Study on NATO Enlargement*.[17] These criteria were to be met prior to accession, and meeting them did not necessarily guarantee accession. The precondition of democratic civilian control was not defined in depth; NATO officials stressed the diversity of national systems of democratic civilian control and eschewed prescribing any one formal model of civil-military relations to applicant states.[18] Nevertheless, in the Czech Republic, Hungary and Poland, Western criticism regarding the effectiveness of their democratic control of armed forces and the possibility that failure to address these problems would harm their chances for NATO accession prompted the political leaderships of these countries to implement important changes in their systems of armed forces control and accountability.[19] Indeed, establishing effective civilian control has proved to be essential in order for governments to undertake painful defence reforms in the face of conservative military leaderships.[20]

NATO sought a structured process that would encourage defence reform and civil–military coordination in candidate states before they became members.

[17] The other political criteria included: demonstrating commitment to and respect for OSCE norms and principles, including resolution of ethnic and territorial disputes; showing commitment to economic liberty and social justice; and ensuring that adequate resources are committed to achieve political and military integration with the alliance. NATO, *Study on NATO Enlargement* (NATO: Brussels, Sep. 1995), chapter 5, available at URL <http://www.nato. int/docu/basictxt/enl-9506.htm>.

[18] Matser, W. and Siedschlag, H., 'Security sector reform and NATO enlargement: success through standardisation of standards?', Edmunds and Germann (note 16).

[19] Molnar, F., 'Democratic control of armed forces in Hungary', eds H. Born *et al., Civil–Military Relations in Europe: Learning from Crisis and Institutional Change* (forthcoming).

[20] Szenes, Z., 'The implications of NATO expansion for civil–military relations in Hungary', eds D. Betz and J. Löwenhardt, *Army and State in Postcommunist Europe* (Frank Cass: London and Portland, Oreg., 2001), pp. 82–83.

This process began in January 1994 with the Partnership for Peace (PFP)[21] programme, which sought to increase transparency in national defence planning and budgeting, encourage democratic civilian control of the military, and promote cooperation in military and security affairs between the PFP and the NATO countries.[22] Part of the rationale for establishing military-to-military contacts through the PFP, for example, was the idea that military elites in democratizing countries could undergo a socialization process through interacting with Western counterparts who subscribe to doctrines and norms of democratic control. It was believed that military elites with such exposure would be more likely to accept and internalize such beliefs, as had been the case in post-authoritarian Spain's military relations with NATO.[23] The PFP was, then, in part intended to function as a 'transmission belt' for democratic norms regarding the civilian control of armed forces.

However, the experience of the Czech Republic, Hungary and Poland after joining NATO in 1999 indicates that the general processes of reform in the defence sector have been much slower and more problematic than was initially expected and have encountered significant obstacles. While all the new members have carried out substantial downsizing, undertaken strategic defence reviews and aspire to create more professional, mobile and flexible armed forces, the bulk of their militaries comprise oversized forces that are too heavy, underfunded, poorly trained, often poorly equipped with non-operational or obsolete equipment and showing declining operational effectiveness.[24] These problems have tended to reflect a lack of political will and domestic public support for increased defence spending in order to implement reforms, inadequate defence planning and programming procedures, and major technical and structural deficiencies in their armed forces.[25]

Only with the Kosovo crisis did NATO itself fully realize the disjuncture between contemporary security challenges and the military capabilities of most member states. NATO shifted to an emphasis on more mobile, deployable and sustainable forces, and the new members faced the difficult task of transforming mass army structures into capability-based, flexible and combat-ready forces. This implies fundamental reform over the long term in mindset, structure and procedures, and it has been made more difficult by the unexpectedly high costs to new members of meeting NATO force planning criteria.[26]

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[21] For the states participating in the PFP see the glossary in this volume.

[22] NATO, 'Partnership for Peace: Framework Document', NATO Ministerial Communiqué, Annex to M-1(94)2, 10–11 Jan. 1994, available at URL <http://www.nato.int/docu/comm/49-95/c940110b.htm>.

[23] Pevehouse, J. C., 'Democracy from the outside–in? international organizations and democratization', *International Organization*, vol. 56, no. 3 (summer 2002), p. 528.

[24] Matser (note 18). See also Szayna, T., *NATO Enlargement, 2000–2015: Determinants and Implications for Defense Planning and Shaping,* MR-1243-AF (RAND: Santa Monica, Calif., 2001), pp. 111–12, available at URL <http://www.rand.org/publications/MR/MR1243/>.

[25] Karkoszka, A., 'Following in the footsteps', *NATO Review*, spring 2002, available at URL <http://www.nato.int/docu/review/2002/issue1/art4.html>.

[26] Martinusz, Z., 'NATO enlargement: lessons from the 1999 round', eds T. Valasek and T. Hitchens *Growing Pains: The Debate on the Next Round of NATO Enlargement* (Center for Defense Information: Washington, DC, 2002),, pp. 47–49, 52.

There is also evidence of insufficient assistance through the PFP and the Planning and Review Process (PARP).[27] On becoming NATO members on 12 March 1999, the Czech Republic, Hungary and Poland became ineligible for important bilateral assistance programmes, adding to their challenges in post-accession defence reform. The new members also found that their human and material resources were overwhelmed by the requirement of applying and incorporating NATO Standardization Agreements (STANAGs).[28]

Moreover, as regards the specific objectives of SSR and despite the establishment of formal systems of democratic civilian control, these countries continue to experience problems in this area. They have experienced resistance from military elites, disputes within the executive branch over areas of authority and responsibility, and shortages of qualified civilian personnel to staff defence ministries and provide independent expertise on defence and security affairs. In the case of Poland, successes in overcoming severe conflicts in civil–military relations through legal and structural reforms in the three years preceding NATO membership have not been sustained following the country's accession to NATO in March 1999. Faulty institutional design, superficial understanding of the principles of democratic control, and inadequate procedures for developing civilian defence expertise and embedding it within the process of defence management have combined to undermine civilian democratic control of the armed forces.[29]

The Czech Republic and Hungary have been criticized for not meeting the defence commitments they embraced upon accession to NATO. Hungary's defence budget declined through the 1990s to the point that the Hungarian Defence Forces were severely underfunded. By 1999 they were considered 'one of the weakest national military establishments in Europe'.[30]

The armed forces in the Czech Republic have had different obstacles to overcome in their transformation, as they have generally been held in low regard by the public for historical reasons, and have suffered more recently from political neglect.[31] Governmental indifference to defence and security concerns during Vaclav Klaus' tenure as prime minister served to exacerbate the effects of dramatic budget cuts and downsizing and resulted in an incoher-

[27] For more information on this biennial defence planning and review process see NATO, 'The Partnership for Peace Planning and Review Process (PARP)', *NATO Handbook* (NATO: Brussels, 2002), chapter 3, 'The opening up of the alliance', available at URL <http://www.nato.int/docu/handbook/2001/hb030208.htm>.

[28] Simon, J., 'Partnership for Peace (PFP): after the Washington Summit and Kosovo', *Strategic Forum*, no. 167 (Aug. 1999), available at URL <http://www.ndu.edu/inss/strforum/forum167.html>.

[29] Gogolewska, A., "Democratic civilian control of the military in Poland", eds Born *et al.* (note 19).

[30] Barany, Z., 'Hungary, an outpost on the troubled periphery', ed. A. A. Michta, *America's New Allies: Poland, Hungary, and the Czech Republic in NATO* (University of Washington Press: Seattle, Wash., 1999), p. 106. In the lead-up to the Prague Summit, US and NATO officials took Hungary to task for failing to meet its promise to allocate 1.8% of gross domestic product to defence. NATO officials reportedly told Hungarian Defence Minister Ferenc Juhasz that Hungary would have been expelled if NATO had had the mechanism to do so. The example of Hungary has been used in support of arguments to introduce monitoring of NATO member states' performance in meeting key democratic and military criteria and a system of graduated sanctions for states that fail to address deficiencies, including expulsion. Wallander, C., 'NATO's price: shape up or ship out', *Foreign Affairs*, Nov./Dec. 2002, p. 5.

[31] Szayna, T., 'The Czech Republic: a small contributor or a "free rider"?', ed. Michta (note 30), pp. 128–31.

ent procurement process.[32] In 1997 NATO and the USA strongly criticized the Czech Republic for the military's declining readiness, poorer training and proficiency, and equipment problems. Nevertheless, it was not until Klaus was ousted and a caretaker government sworn in that a viable plan for defence reform and integration into NATO was developed, including increases in defence spending as a percentage of gross domestic product (GDP). During the 1999 NATO Operation Allied Force against the Federal Republic of Yugoslavia, which was embarked upon only two weeks after the formal entry of the new members into NATO, Czech public opinion remained divided and the political leadership failed to mobilize support for the air operation in Kosovo, either within the government or among the broader public, raising doubts about the loyalty and reliability of the new ally.[33] Public doubts about the NATO air campaign have been linked to uncertainty among Czechs about the real meaning of NATO membership, and ultimately to inadequate preparation of the public for NATO membership through informed debate and discussion by the Czech political class.[34]

While NATO's leverage to pressure for continued reforms was reduced once the three states achieved membership,[35] some blame also lies with the reluctance of the alliance to criticize or even to continue providing advice to them once they had gained membership.[36] NATO's criticism of the general state of their civil–military relations and defence performance, while so effective in prompting reforms before accession, seemed to stop when these states entered NATO in spite of the many problems remaining. The end result is that transformation of the military in the three new NATO member states lags behind in political, economic and social transformation.[37] Four years after joining, the new NATO members are acknowledged to have contributed only modestly to NATO capabilities.

The concern has thus been perpetuated that future members—whose institutional capacities are all significantly weaker than those of the three new member states—will be consumers, rather than producers, of security, at least in the military sense.[38] According to a RAND study in 2001,[39] all nine Membership Action Plan (MAP) states (seven of which were subsequently invited to begin accession negotiations) were still facing problems of defence reform: including low levels of technology, training and readiness in their armed forces; inadequate defence expenditure; and severe problems with their air forces and

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[32] Szayna (note 31), pp. 136–37.

[33] Gabal, I., Helsusova, L. and Szayna, T., 'The impact of NATO membership in the Czech Republic: changing Czech views of security, military and defence' (Conflict Studies Research Centre, Royal Military Academy, Sandhurst: Camberley, Mar. 2002), pp. 3–4.

[34] Gabal, Helsusova and Szayna (note 33), pp. 30–31.

[35] Szayna (note 24).

[36] Simon, J., 'RoadMAP to NATO accession: preparing for membership', *Hampton Roads International Security Quarterly* (Portsmouth), spring 2002.

[37] Martinusz, Z., 'NATO enlargement: lessons from the 1999 round', Valasek and Hitchens (note 26), p. 45.

[38] Simon, J., 'The next round of NATO enlargement', *Strategic Forum,* no. 176 (Oct. 2000), available at URL <http://www.ndu.edu/inss/strforum/sf176.html>.

[39] Szayna (note 24).

air defence, including inadequate training of air crews, inadequate equipment, and in some cases inability to protect their own sovereign airspace.[40] Assuming the continuation of those trends, the study concluded that future members will be able to make only minor contributions to Alliance missions in collective defence and power projection over the near to medium term (10–15 years).

While all the CEE countries are hampered by limited resources in the defence and military spheres, the Czech Republic, Hungary and Poland are among the most economically advanced states in the region. Even so, the absence of a direct military threat to any of their territories suggests that their defence spending will not increase substantially in the foreseeable future, however clear their general political support may be for NATO goals and their further evolution. Low defence spending can only aggravate the already widening 'technology gap' between the USA and its European allies. The growing perceptions of the new members as a 'third tier', lacking a technology base comparable to other European states, gives credence to fears about enlargement diluting NATO, but also risks further weakening US interest in the alliance as a military instrument of choice.[41]

The new Central European members of NATO appear to have been caught between limited defence budgets and their commitments to meet NATO military requirements such as national Force Goals and the 1999 Defence Capabilities Initiative (DCI),[42] as well as contributing to individual operations. Their efforts to integrate into the alliance come at a time when NATO has embarked on a period of fundamental transformation to address not only the collective defence of its members but also conflict prevention, conflict management, and coercive peacemaking throughout Europe and beyond the NATO treaty area. NATO's military requirements may have even helped to slow defence reform in the new member states and impeded the undertaking of radical structural change in their armed forces.[43] In the view of some observers, the process has inadvertently resulted in two-tier military structures in the new member states. A small section of elite forces, usually rapid reaction forces, are trained, well-resourced and interoperable with NATO forces, and deployable in international peace support operations, while the majority remain underfunded and barely adequate even for territorial defence.[44] Indeed, by the time of accession in April 1999, the PARP had prepared only about 15 per cent of the armed forces of the three new members to NATO standards.[45] The priority given to maintaining them, as NATO standards continue

[40] The 9 MAP states are Albania, Bulgaria, Estonia, Latvia, Lithuania, the Former Yugoslav Republic of Macedonia, Romania, Slovakia and Slovenia. Szayna (note 24), p. 108.

[41] Terriff, T. *et al.*, '"One in, all in?": NATO's next enlargement', *International Affairs*, vol. 78, no. 4 (Oct. 2002), pp. 713–29.

[42] On the DCI see 'NATO's Defence Capabilities Initiative', *NATO Handbook* (note 27), chapter 2, 'The transformation of the alliance', URL <http://www.nato.int/docu/handbook/2001/hb0205.htm>.

[43] Martinusz (note 37), p. 47.

[44] Cottey, A., Edmunds, T. and Forster, A., 'Military matters: beyond Prague', *NATO Review*, autumn 2002, available at URL <http://www.nato.int/docu/review/2002/issue3/english/military.html>; and Karkoszka (note 25), p. 2.

[45] Simon (note 38).

to be more stringently defined and applied, leaves few resources for training and upkeep of the rest.

Lessons for the next round of enlargement

For political as much as military reasons, one concern at the time of the first round of enlargement was for NATO to avoid creating new dividing lines in Europe between successful applicants and those who had still not been invited to join the alliance. In handling the latter, NATO sought to apply lessons learned from its experience with the integration of the first three new members, aiming to be more specific than it had previously been in identifying what aspirants needed to accomplish in order to be invited to join and more successful in achieving reforms in their defence sectors. NATO enhanced its PFP programme[46] and established the Membership Action Plan at the Washington Summit in April 1999.[47] These initiatives were intended to provide non-NATO member states with a sense of inclusion as well as a structured process for reform and the development of military capabilities. The process of NATO enlargement has thus contributed to the broader process of the integration of CEE states into the Euro-Atlantic community, and by so doing has contributed to its stabilization.

The MAP is designed to help aspirant states to meet NATO standards and to prepare for membership through the development of forces, capabilities and structures.[48] It requires that they undergo a lengthy process of individualized reform, coordination and review, but it also offers a more structured and systematic reform process, with more feedback and assistance, than was available during the first wave of enlargement.

Aspiring countries submit an Annual National Program (ANP) detailing their preparations for membership, objectives and specific steps being taken in five 'chapters': (*a*) political/economic affairs (including commitment to the rule of law and human rights, and the establishment of democratic civilian control of the armed forces); (*b*) defence and military; (*c*) resources (agreement to allocate sufficient budgetary resources to enable implementation of alliance commitments); (*d*) security (ensuring the security of sensitive information); and (*e*) legal aspects.

The MAP process allows aspirant states to set their own objectives and targets in preparing for future membership and offers periodic feedback, practical advice and assistance. It is more comprehensive and systematic than the PFP in its approach to defence and security reform in the aspirant states, offering a defence planning approach which includes elaboration of agreed planning tar-

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[46] 'Chairman's summary of the meeting of the Euro-Atlantic Partnership Council at summit level, Washington, DC', NATO Press Release EAPC-S(99)67, 25 Apr. 1999, URL <http://www.nato.int/docu/pr/1999/p99-067e.htm>.

[47] 'Membership Action Plan (MAP)', NATO Press Release NAC-S(99)66, 24 Apr. 1999, URL <http://www.nato.int/docu/pr/1999/p99-066e.htm>.

[48] *NATO Handbook* (note 27), chapter 3, 'The opening up of the alliance: the process of NATO enlargement, the Membership Action Plan', URL <http://www.nato.int/docu/handbook/2001/hb030103.htm>.

gets. It also functions as a sort of clearing house for assistance from NATO and its member states. During the four cycles of the MAP process since its inception in 1999, effort has been made to fine-tune the process and to ensure that NATO assessment teams could cover all five MAP chapters and present feedback and progress reports to the applicants. As a result, the MAP and the ANP are considered to have 'helped create a structure for democratic control, defence reform and civil–military coordination that otherwise might not have arisen'.[49] Through the evolution of these mechanisms to promote interoperability, more rational assistance and planning for reform, NATO has contributed to the establishment of strong international norms relating to democratic oversight and control of armed forces.

A changing NATO environment

The environment in which the second-round enlargement strategy has come to fruition has been gravely affected by the challenges to NATO that have emerged since the 11 September 2001 terrorist attacks against the United States. Even earlier, NATO policy makers had seen a need to balance further 'widening' by enlargement with further 'deepening' of the alliance's military integration through more up-to-date and better-enforced defence planning goals, and the modernization of operational theory and practice. The particular course taken by Euro-Atlantic security policy debates in 2001–2002 further complicated these goals by adding pressure for NATO to prove its relevance to counter-terrorism strategy and to the USA's concerns over the threat from weapons of mass destruction linked with 'rogue states' such as Iraq.

In the public eye at least, the main achievement of the NATO Prague Summit was its decision to admit seven new members. Eclipsed by this headline issue, however, were concurrent efforts to transform the alliance's focus and to address the capabilities issue. The selection of new members itself appeared to have been affected by the new agenda, and notably by the geo-strategic significance of new members.[50] Some observers maintain that, on the grounds of this criterion, and specifically their position as a link between Hungary, Greece and Turkey, Bulgaria and Romania were invited to become members at the Prague Summit despite their poor performance in other fields.[51] Romania, for example, had encountered problems with meeting the democratic criteria because of concerns about corruption, lack of transparency, lack of respect on the part of the Ion Iliescu Government for the rule of law and political interference with the judiciary.[52] A further consideration might be that both countries' presence in the alliance would help to stabilize and contain the post-Yugoslavia region during a phase when the military input of NATO,

[49] Matser and Siedschlag (note 18), p. 7.

[50] Erlanger, S., 'Romania and Bulgaria edge nearer to NATO membership', *New York Times*, 26 Mar. 2002, p. A14.

[51] LeBor, A., 'Alliance bends its rules for strategic Romania', *The Times* (online edn), 20 Nov. 2002.

[52] Amnesty International, 'Romania', *Annual Report 2002*, URL <http://web.amnesty.org/web/ar2002 .nsf/home/home?OpenDocument>.

notably the USA, to stabilization there was set to decline.[53] Nevertheless, one can also see the decision to extend invitations to the seven candidate states as essentially a political decision, aiming at providing more security in the region by bringing as many new members as feasible into the primary Euro-Atlantic security structure.

In 2002 NATO not only widened its doctrinal scope to cover potentially worldwide operations and counter-terrorism but also took concrete steps for streamlining the military command arrangements to focus more effectively on rapid deployment, launching the Prague Capabilities Commitment (PCC) and creating a NATO Response Force (NRF).[54] All these changes had a direct impact on the mutual expectations of the alliance and its new member states. While the new headquarters system means less change on their territories than might otherwise have been the case, the PCC creates explicit new targets for them in the fields most relevant to interoperability for joint military deployments. The NRF seeks, *inter alia*, to bridge the growing discrepancy between the significant US power projection capability and the generally small and fragmented European capabilities, by allowing the latter to be used as 'niche' contributions in relevant areas of military specialization. This aspect of the NRF is especially appealing to the smaller NATO member states.[55] The NRF is also attractive because the costs will be kept relatively low owing to the small number of forces (a figure of 20 000 is now being mooted).[56] The concomitant risk is that nations may relax on the rest of their capability goals once a 'niche' input to this high-profile endeavour has been identified.

The NRF was also presented as compatible with and complementary to the EU crisis management capability delineated by the December 2002 Headline Goal.[57] Those Central European countries also joining the EU will of course be expected to make contributions to the EU (and have already had an opportunity to volunteer contributions through the EU's European Security and Defence Policy (ESDP) consultation frameworks with interested non-member states). In general, the requirements of the two new forces appear to converge more than conflict, and the circumstances in which each might be used are distinctly different (the NRF being more suitable for 'short, sharp' US-led actions in smaller coalitions).

As with previous cycles of NATO defence modernization goals, new members' success in coping with these latest targets will not necessarily come at the expense of SSR proper, but will not automatically promote it either. What remains to be seen is whether the effort needed to maintain and further

[53] Testimony of William E. Odom to the US House International Relations Subcommittee on Europe, Washington, DC, 17 Apr. 2002, available at URL <http://usinfo.state.gov/topical/pol/nato/0417hudson. htm>.

[54] For further detail on the decisions taken at the NATO Prague Summit see URL <http://www. nato.int/docu/comm/2002/0211-prague/>. See also chapter 1 in this volume.

[55] Examples of niche areas of specialization include the British and French special operations forces, the Czech Republic's chemical weapon defence unit, Estonia's explosives detection teams, Romania's capability for combat in mountainous terrain and Latvia's naval divers.

[56] Binnendijk, H. and Kugler, R., 'Transforming European forces', *Survival*, vol. 44, no. 3 (autumn 2002), p. 127.

[57] See also chapter 6 in this volume.

improve democratic standards in the defence sector will be kept up alongside the effort devoted to increasingly specific and quantified capability outputs. This may need special attention in the next few years, first and most obviously because the transition to full membership will leave the new members with no special targets or incentives for SSR beyond those applicable to any ally, while it exposes them to the full pressures and possible distortions of intra-alliance politics. At the same time, the severe disputes in NATO in early 2003 over support to Turkey[58] may have shaken the faith of both Central European leaders and their publics in the value of NATO guarantees, the price for which they had felt it worth making so many changes and sacrifices (not least in the field of SSR) during the past decade.[59]

There is now an internal discussion in NATO, initiated by the Swiss Government, about incorporating SSR as a topic in future PFP work programmes. This reflects the wider acknowledgement that, following the terrorist attacks of 11 September 2001 and the more complex, fluid security challenges in the contemporary environment, it is necessary for NATO to broaden the scope of its engagements not just beyond the treaty area in geographic terms but also beyond the military dimension in functional terms. If this is accepted, the dialogue between PFP states and member states may well be extended to include ministries and officials other than those in the foreign and defence ministries, such as interior and justice ministries.[60]

In summary, the process of NATO enlargement has had several major effects on the defence element of the security sector reform of its first three new member states and those invited to join in 2004. It has successfully established the norm of democratic control of and transparency in armed forces, and this expectation continues to exert considerable influence on civil–military reforms in countries aspiring to join the alliance. Further, NATO has recently implemented a much more structured process of advice and support for defence restructuring in aspirant and candidate states through the development of the MAP—a reform process which is now intended to both precede and follow formal accession to the alliance. The MAP was developed specifically in response to and on the basis of the experience of problems encountered in the entry of the first three new Central European states into NATO, including low levels of defence spending and slow defence reforms.

Both member and candidate states are being affected by the push to reverse the dilution of NATO's military capabilities and 'reinvent' the alliance to play a global counter-terrorism role. The PCC and the NRF offer mechanical solu-

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[58] See also chapter 1 in this volume.

[59] Kostolny, M., 'What will NATO be like?', *Sme* (Bratislava), 11 Feb. 2003, p. 8, in 'Slovak commentary questions purpose of NATO in view of dispute over Turkey', Foreign Broadcast Information Service, *Daily Report–West Europe (FBIS-WEU)*, FBIS-WEU-2003-0212, 13 Feb. 2003; and Sienkiewicz, B., 'Lesson Poland has to learn fromt he Iraqi crisis', *Rzeczpospolita* (Warsaw), 14 Feb. 2003, in 'Polish analyst views implications of NATO crisis for global, domestic security', FBIS-WEU-2003-0214, 19 Feb. 2003.

[60] Winkler, T., *Managing Change: The Reform and Democratic Control of the Security Sector and International Order*, DCAF Occasional Paper no. 1 (DCAF: Geneva, Oct. 2002), pp. 21–22, available at URL <http://www.dcaf.ch/publications/Occasional_Papers/1.pdf>.

tions, but they also require a will on both sides of the Atlantic to make them work—and make use of the results. In order to avoid the further consolidation of a de facto two-tier NATO and an imposed division of labour in post-cold war missions, European states must improve their military assets enough to be able to participate credibly. The NRF may mitigate the challenge for the governments of new NATO members because it appears to require a more modest and specific investment, thus easing the burden on societies that are unwilling to sustain a high level of military spending. In combination with the more refined MAP, which appears more likely to address the main obstacles to reform in the remaining candidate countries, NATO's contribution to defence transformation in the CEE countries is becoming more realistic and more likely to show results.

IV. EU enlargement: challenges of 'internal security reform'

The European Union is enlarging at the same time as it is undergoing fundamental change in the security field. The change is derived not only from efforts to develop an autonomous European crisis management capability but also, and more profoundly, from the accelerated emergence of an internal security regime since 1999. Developments in what was previously known as 'justice and home affairs' began with 'compensatory measures' at the external borders of the EU to reduce the risks that criminals and illegal immigrants would enter a common space within which they could move freely after the dismantling of internal borders. The internal security regime has been given impetus, especially by the decision taken at the European Council meeting in Tampere on 15–16 October 1999 to develop, as a high political priority, the Area of Freedom, Security and Justice (AFSJ) by the target date of 2004. The three components of the AFSJ are intended to be 'interlinked and balanced'; extending beyond the freedom of movement of persons, the AFSJ includes the freedom to live in a safe and law-abiding environment. More specifically, the Tampere European Council meeting agreed on an increase in all forms of cooperation between the law enforcement agencies of member states. Practical manifestations of the AFSJ include not only the Schengen Agreement on border control[61] and its incorporation in the *acquis communautaire*,[62] but also the expansion of Europol (the EU-level information, coordination and exchange centre staffed by police and customs officers) and the development of the cross-border prosecution agency Eurojust.

However, these developments in internal security coordination have generally not been matched with corresponding measures for transparency, judicial control, parliamentary accountability and human rights protection. Candidate states are expected to adjust and harmonize national policy to conform to the

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[61] For information on the Schengen Agreement see European Union, Justice and Home Affairs, 'The Schengen *acquis* and its integration into the Union', URL <http://europa.eu.int/scadplus/printversion/en/lvb/l33020.htm>.

[62] The *acquis communautaire* is the body of the European Union's laws and policies, currently estimated at *c.* 80 000 pages.

dynamic 'communitarization' of the EU area of internal security. While AFSJ development, and to a lesser extent the ESDP, are influencing the internal and external security reform of states looking to become members of the EU, they raise the prospect that EU enlargement favours the shoring up of effectiveness of the security sectors of applicant states, while neglecting the elements of good governance that are integral to the notion of SSR.

While NATO has gradually evolved more specific mechanisms for guiding defence reforms among aspiring states in the form of the progressively refined MAP process and clear norms of interoperability, its formal political criteria for accession remain general. The EU has a rather different mixture of generalized political conditions and extremely precise, often legally formulated technical ones. At the political level, applicant states must meet the 'Copenhagen Criteria',[63] such as a functioning constitutional democracy, including institutional stability, the rule of law, respect for human rights and protection for minorities, and a competitive market economy. At the technical level, they must accept and have the capacity to implement the *acquis communautaire*, in both the external and internal security field.

Just as NATO lacks a precise criterion for democratic civilian control over armed forces, the EU does not define constitutional democracy or market economy and prescribes no single model. During the negotiation process these criteria have formed the basis of perpetually changing and increasingly specific demands on Central European candidates, making the EU membership criteria a 'moving target'.[64] The EU's application of these norms to its existing members is also a contentious and evolving subject, as witnessed by the application of political sanctions on the Austrian Government in 2000.

The EU's relations with post-communist countries in transition to democracy is based on the implicit assumption 'that accession and transition are part of the same process and that preparations to join the Union are coterminous with overall development goals'.[65] However, EU policies and regulatory frameworks were not devised for countries in transition but for those at a very different stage of their political and economic development, with well-developed institutional structures. Candidate states in Central Europe are still in the process of transforming their internal security systems. Key reforms remain to be implemented in terms of achieving more effective and democratic policing systems, restructured and democratically controlled intelligence services, and effective, reliable and accountable border management services. The result of having to take on the EU requirements in the internal security

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[63] For the 'Copenhagen Criteria', agreed by the European Council at Copenhagen in June 1993 and endorsed at Essen in Dec. 1994, see 'EU enlargement: a historic opportunity', URL <http://europa.eu.int/comm/enlargement/intro/criteria.htm>.

[64] Grabbe, H., 'European Union conditionality and the *acquis communautaire*', *International Political Science Review*, vol. 23, no. 3 (July 2002), p. 251.

[65] Grabbe (note 64), p. 253.

sphere, some fear, will be distortion in policy effects, and especially, inadequate protection of democratic values and human rights.[66]

Specific challenges of the *acquis*

The EU accession process includes harmonization of laws and procedures by aspirant states within the context of a rapidly developing regional internal security regime. The JHA policy area concerns issues of internal security, primarily the creation of the Schengen zone through a common border regime and, increasingly, common asylum policies. JHA was one of the most dynamic areas of European policy initiatives during the 1990s. Its rapid growth has been seen as the result of both the increase in perceived transnational challenges to internal security and the development of a 'culture of cooperation' among normally circumspect and inward-looking police forces, ministries of interior and justice, and customs authorities as a result of the regular exchange of information and cross-border cooperation in the Schengen zone.[67] There is also considerable cooperation among police colleges of EU member states, in the hope that this may lead to a common managerial culture and a further convergence of norms in policing behaviour.[68] There is less legislation in the internal security area than in many others under the remit of the EU, as JHA concerns responsibilities that traditionally lie with the executive sphere, and hence were initially governed by intergovernmental agreement. Although legal instruments are now being developed more rapidly, harmonization is still less a question of complying with legislation than of earning and keeping the trust of the EU member states in providing a non-porous border.[69]

The EU has consciously applied a double standard in the JHA area: all the candidate countries are required to meet the standards of the Schengen *acquis* in law enforcement and border management, which has been incorporated into the Treaty on European Union (Article 49).[70] The Schengen *acquis* primarily concerns strengthening the EU's external borders and combating illegal immigration. Among the existing EU members, however, consistency is lacking because some have opted out from the Schengen zone (Ireland and the UK), others have signed on to the Schengen Agreement but implement the rules selectively according to national preferences,[71] and two non-EU members have decided to abide by the agreement (Iceland and Norway).

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[66] See, e.g., '"Safe and dignified", voluntary or "forced" repatriation to "safe" third countries', *Statewatch Bulletin*, vol. 12, no. 5 (Aug.–Oct. 2002), p. 1, a summary of which is available at URL <http://statewatch.org/news/2002/nov/14safe.htm>.

[67] Monar, J., 'The dynamics of justice and home affairs: laboratories, driving factors and costs', *Journal of Common Market Studies*, vol. 39, no. 4 (Nov. 2001), p. 752.

[68] I am indebted to Otwin Marenin for pointing this out.

[69] Grabbe (note 64), p. 255.

[70] The 1991 Treaty on European Union was amended by the 1997 Treaty of Amsterdam and the 2001 Treaty of Nice (entered into force on 1 Feb. 2003). A consolidated text is available at URL <http://europa.eu.int/eur-lex/en/search/search_treaties.html>.

[71] E.g., France has for years maintained de facto border controls on its northern border with Belgium in a manner that appears to exceed the Schengen Agreement provisions for temporary reimposition of systematic checks. Anderson, M., Apap, J. and Mulkins, C., *Policy Alternatives to Schengen Border*

Apart from a general desire to avoid further 'special cases', the EU has based its enlargement approach on the perception of a greater threat from illegal immigration, smuggling and other cross-border problems along its eastern border than on its northern and western periphery—which is of even greater concern after the attacks of 11 September 2001. On similar logic, no candidate country has been offered a transition period for implementation of JHA policies. The result is that candidate countries are required to meet the highest standards at the moment of entry, accepting the *acquis* in full as well as further measures taken by the institutions within its scope.[72] Recognizing that failure to comply in this field might jeopardize their whole accession strategy, the candidate states agreed in 1998 to implement the Schengen *acquis* even before they formally become members of the EU.

Human rights experts and organizations, such as the British Parliament's Joint Committee on Human Rights,[73] have expressed concern about the implications of this approach for the implementation of democratic standards such as respect for human rights as well as for SSR achievements in Central Europe which, after enlargement, would also affect the performance and reputation of the EU as a whole. Two areas of general difficulty are the maintenance of democratic scrutiny over JHA-related activity and the treatment of asylum-seekers and refugees. Practical worries also exist about the impact on the balance between enforcement agencies inside states, and about the consequences for non-Schengen-area neighbours.

There is a long-standing debate about the deficit of democratic (notably parliamentary) control, accountability and transparency at both the EU and the national level in the JHA field. This is in part a consequence of the fact that border control and policing are traditionally executive branch functions, where parliamentary control has been weaker and international cooperation has developed behind closed doors.[74] As cooperation among European law enforcement and intelligence authorities has grown, the new inter-agency frameworks involving the police and magistrates—Europol and Eurojust—have also been free of scrutiny and lacking in transparency.[75] The JHA is also characterized by weak judicial control by the European Court of Justice. No specific judicial controls have been defined for Europol, Eurojust and the EU border control coordinating group (known as the Council's Strategic Commit-

Controls on the Future EU External Frontier: Proceedings of an Expert Seminar (Centre for European Policy Studies (CEPS) and Batory Foundation: Warsaw, Feb. 2001), p. 24.

[72] On the Joint Committee on Human Rights see URL <http://www.parliament.uk/commons/selcom/hrhome.htm>.

[73] British Parliament, Joint Committee on Human Rights, *Twenty-Third Report*, Session 2001-02, 22 Oct. 2002, para. 37, available at URL <http://www.publications.parliament.uk/pa/jt200102/jtselect/jtrights/176/125502.htm>. See also note 66.

[74] Lord Wallace of Saltaire, 'National and European parliamentary control of Schengen: gains and outstanding deficits', ed. M. den Boer, *Schengen Still Going Strong* (European Institute of Public Administration: Maastricht, 2000), p. 121.

[75] Monar, J., 'The area of freedom, security and justice after the 11th September: problems of balance and the challenge of enlargement', Paper presented to the conference Democracy and Bureaucracy—EU Enlargement and the Future of Europe, European Documentation and Research Centre, University of Malta, 25 Apr. 2002 , pp. 15–16, URL <http://home.um.edu.mt/edrc/conferencepapers.html>.

tee on Immigration, Frontiers and Asylum, 'SCIFA+'), and yet decisions taken in these forums have considerable potential for affecting human rights.[76] There are no real EU-level accountability mechanisms for the Schengen *acquis*, leaving democratic control and accountability to be addressed at the national level, where they remain underdeveloped in many candidate states. In sum, in response to the increasingly transnational threats to public security, policy is being made increasingly at the international level, but with the emphasis on maintaining order at the expense of protecting rights, transparency and democratic control.[77]

Within the EU, these criticisms are sometimes answered by pointing to the monitoring and review arrangements that exist within nations, such as the rights of parliaments and ombudsmen and the activism of NGOs. The campaign currently being pursued in the framework of the European Convention[78] to give treaty status to the European Charter on Fundamental Rights is also relevant. The difficulty with the new member states is that, for historical and sometimes cultural reasons, they may lack the full panoply of institutional checks and balances, opportunities for appeal and review, and competent and confident NGOs that are necessary to reassert the balance in the face of constantly mounting pressures for tighter security. Nor, as noted above, has the EU defined and enforced clear performance standards in these latter fields as part of the accession process. (There is still a considerable variety in existing members' legislative and structural solutions in the human rights and equal rights dimensions.) Hence, there is concern that internal security structures may become over-strengthened (and over-resourced) in comparison with the mechanisms needed to protect individual rights and to assure democratic accountability and transparency.

The weakening of human rights protection is particularly apparent in the extension of EU asylum and immigration policies to the countries of Central Europe. EU policies are caught between two imperatives. Internal security dictates tighter controls at borders against the perceived threats posed by illegal immigration and bogus refugees. On the other hand, the values of liberal humanitarianism call for recognition of fundamental rights of freedom of movement and for refugee protection through fair and reasonable asylum procedures. Because of the way in which EU policy on asylum and immigration has developed (with national justice and home affairs officials pushing in intergovernmental communications for stronger external border controls to compensate for the abolition of internal border controls), the internal security

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[76] Curtin, D. and Peers, S. (eds), 'Joint submissions by the Standing Committee of Experts on International Immigration, Refugee and Criminal Law, The Immigration Law Practitioners Association, Statewatch, and the European Council of Refugees and Exiles to Working Group X ("Freedom, Security and Justice") of the Convention on the Future of Europe', 14 Nov. 2002, URL <http://europa.eu.int/futurum/forum_convention/documents/contrib/acad/0329_c_en.pdf>.

[77] Van Lancker, A., 'Transparency and Accountability of Schengen', ed. M. den Boer, *Schengen, Judicial Cooperation and Policy Coordination* (European Institute of Public Administration: Maastricht, 1997), pp. 61–69.

[78] On developments in the drafting of the European Convention see URL <http://european-convention.eu.int/>.

perspective and emphasis on control have come to predominate over humanitarian concerns and liberal values. The end of the cold war, the liberalization of CEE states, and the dislocation and disorder linked to transition throughout the region were perceived as heightening the risks of uncontrolled, perhaps large-scale immigration. In response, the EU member states devised a preventive strategy focused on integrating Central European candidate states into the EU's developing system of migration control. This has become a key component of EU enlargement politics.[79]

This rapid extension of EU migration policy to Central Europe has been criticized because it is based on an untested assumption that all states participating in the regime hold compatible standards of legal and social protection. The post-communist states lack the liberal humanitarian tradition that acts as a counterbalance to the internal security imperative in Western states, as well as much of the normative and institutional framework that Western states have developed for the protection of refugees.[80] This may raise doubt about whether their application of European standards in the case of refugees and asylum seekers will respect the minimum norms of human rights and humanitarian considerations. Another problem is that residents of the new member countries who after enlargement seek asylum elsewhere in the EU will be turned back on the ground that they come from 'safe' states. However, there are well founded concerns, to which the European Commission has drawn attention in regular assessments during the accession process, about discrimination and violence against visible minorities (notably the Roma) in these countries, excessive use of force and degrading treatment of people held in custody by police.[81]

A practical problem relates to the distribution of EU assistance to candidate countries for reform of their internal security structures. While law enforcement and border control are both main components in JHA, upgrading the border control capacities of candidate states has been the priority concern in EU assistance programmes to date. The result is that border guards in candidate countries have received a disproportionate amount of assistance and resources in comparison to the regular police services, which are typically severely under-funded in post-communist environments.[82] The growing discrepancy in the capacities of these component sectors in candidate countries is cause for resentment and raises questions about the overall rationality of internal security reform.[83]

[79] Lavenex, S., 'Migration and the EU's new eastern border: between realism and liberalism', *Journal of European Public Policy*, vol. 8, no. 1 (Feb. 2001), pp. 24–42.

[80] Lavenex, S., *Safe Third Countries: Extending the EU Asylum and Immigration Policies to Central and Eastern Europe* (Central European University Press: Budapest, 1999), pp. 155–56.

[81] See, e.g., Commission of the European Communities, '2002 regular report on Slovakia's progress towards accession', Brussels, 9 Oct. 2002, URL <http://europa.eu.int/comm/enlargement/report2002/sk_en.pdf>. See also 'Migration and asylum in Central and Eastern Europe', Working Paper, Directorate for Research, Civil Liberties Series LIBE 104 EN (European Parliament: Brussels, Feb. 1999), p. 2.

[82] Anderson, Apap and Mulkins (note 71), p. 24.

[83] Lavenex (note 79), p. 37.

Furthermore, through the principle of 'safe third countries' and the negotiation of re-admission agreements, countries in Eastern Europe immediately outside the accession group of states are increasingly taking on the burden of immigration control and refugee protection on behalf of their more developed neighbours. Ukraine, an important transit country, has concluded repatriation agreements which now enable Germany to deport asylum seekers back to Ukraine via Poland. Police brutality against asylum seekers and migrants occurs frequently in Ukraine, however, violating international and EU human rights norms.[84] One result of the restrictive measures being implemented by the EU is the threat of the exclusion of third-country nationals and those countries that do not meet the Schengen standards.

In summary, EU enlargement is exerting strong influence on candidate states in terms of reforms to the various policy sectors subsumed under 'internal security', including border control, asylum and immigration, police and judicial cooperation. Moreover, EU policy is, in effect, being 'exported' to third states which have not yet been accepted for, or even applied for, membership, notably through the immigration and asylum mechanisms discussed above. What is uncertain at this point is whether measures to boost the effectiveness of EU internal security are being accompanied by efforts to protect the democratic values and norms implicit in European Union membership.

As with NATO, all these causes for concern are sharpened by the fact that the *acquis* is rapidly being developed further and in the direction of constantly tightening controls. In the first quarter of 2002 the EU pushed through a package of measures on common penalties for terrorism, extradition procedures and a common arrest warrant which will automatically become applicable to the new member states as well.[85] The fact that the measures gave rise to protest from human rights monitors and parliaments within several EU countries, yet were carried through with only a minimal time for scrutiny, makes clear that the problems outlined above are neither imaginary nor diminishing.

V. New frontiers

Properly considered, all the trends addressed in this chapter reflect not so much a *diminution* of concern about security sector reform in the European theatre as a *shift* in its focus. Both NATO and EU policy makers are turning their attention, in anticipation of enlargement, to the security challenges presented by 'new neighbours' and to the options for deeper engagement with them.[86] It is generally accepted that substantial shifts of priority and method may be needed for the purpose within institutional outreach policies, on top of the structural changes that are inevitable as the centre of gravity of (notably) the Partnership for Peace and the Euro-Atlantic Partnership Council moves

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[84] 'Ukraine–EU deportation regime adopted', *Statewatch Bulletin*, vol. 12, nos 3–4 (May–July 2002), p. 4.

[85] Council of the European Union, Council Framework Decision of 13 June 2002 on combating terrorism, 2002/475/JHA, *Official Journal of the European Communities,* L 164, 22 June 2002, pp. 3–7.

[86] See also chapter 1 in this volume.

eastwards. The OSCE and the Council of Europe, while not changing their membership structures, will need to address parallel issues about how to tackle that cluster of unresolved conflicts and other security challenges remaining outside the extended NATO and EU boundaries—without unnecessarily hardening dividing lines or falling into overt discrimination.

These outreach strategies will have various direct and concrete security goals, but all of them will need to integrate the pursuit of security sector reform both as an instrument for progress and as a goal in itself. There are at least three underlying policy challenges or conundrums involved which, while not the subject of this chapter, should be noted as points for further attention in the SSR debate.

The first is the observation that the 'new frontier' zones are actually several and different in nature. One distinction may be drawn between the countries of South-Eastern Europe (including the new states of the former Yugoslavia), which have already been brought within the ambit of eventual EU integration, albeit with widely varying time-lines, and the range of OSCE nations to the east, extending into the Caucasus and Central Asia, whose eventual relationship to the EU and NATO is far more uncertain. Operationally as well as politically, the prime responsibility for the first group is shifting to the EU from NATO, but this is happening in a still fragile post-conflict environment where it is not yet certain that the sticks and carrots of 'the European way'[87] can do the job alone. Arguably, the eastern and southern shores of the Mediterranean could be seen as a third frontier zone where no existing European institution has yet demonstrated the ability to promote significant change in security culture. As European strategies develop, it will be important to ensure that the relevance of SSR is not left out in addressing any of these frontiers and that double standards and incoherence in handling this dimension are avoided so far as possible.

The second is the obvious fact that in all the new frontier zones, standards of democracy and transparency in the security field (as well as of military reform) are generally lower than in the present enlargement zone, and histories and cultural environments more significantly divergent. This raises questions about whether the methods used to promote SSR in Central Europe can simply be extended to the new targets and, if not, what changes of philosophy and implementation may be required. Such questions become even more pressing when considering the transferability of lessons from SSR in Europe to areas of the developing world.

The third point is a wider extension of the argument made above about the risk of losing sight of, or at least leverage over, SSR within the zone already covered by enlargement. This problem does not arise only from the NATO and EU dynamics discussed above. It is compounded by the fact that there will be a transfer of *resources* needed for promoting security sector (and other) reform from the new member states to new-frontier recipients. There is already concern that, for example, many of the Central European NGOs that

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[87] See the Introduction in this volume.

were active during the pre-accession phase and have received support from the Phare programme[88] and other Western institutional subsidies will not be able to survive the withdrawal of such assistance. It is uncertain whether the PFP Consortium of Defense Academies and Security Studies Institutes[89] can survive beyond 2003 in its present form. Debate has started within the OSCE on whether it is acceptable to shift that organization's work on security building exclusively to the zones lying beyond the larger NATO and EU, given that some quite serious unresolved internal conflicts, potential national minority problems and other security challenges clearly persist within the 'integrated' area.

Put in these terms, the issue becomes a sensitive political one which challenges the assumptions of the European 'West' about the adequacy of its own security policy model and control mechanisms more deeply than anything occurring in the pre-enlargement period. Creating explicit targets (such as the NATO MAP) for new members' application of democratic norms in the internal security sector would be a major and contentious undertaking precisely because EU logic would require them to be equally—and possibly even retroactively—applicable to all member states. A completely fresh approach developed in the context of the European Convention might be the least problematic scenario. However, there are also some practical options for addressing the problem that need not have the same divisive overtones and would be worth addressing without delay. One approach would be to find ways of associating the new NATO and EU members directly and creatively with the new security reform strategies for neighbouring areas, so that they continue to 'learn through teaching'—and strengthen regional security communities across dividing lines in the process. Another would be to work deliberately for the extension to new membership zones of the (non-governmental) networks and movements existing in Western Europe for the monitoring of governmental behaviour in the external and internal security field. Parliamentary bodies existing in NATO, the EU, the OSCE and the Council of Europe could be important both as actors and as providers of a conceptual framework for this end. No doubt other prescriptions can be found, so long as the issue is faced openly and in good time.

VI. Conclusions

From the discussion about the enlargement and transformation of two key regional organizations in the Euro-Atlantic sphere, some tentative conclusions can be drawn about the impact of these multilateral institutions on security sector reform in member and, especially, aspirant states.

First, multilateral institutions offer significant incentives and consequently potential to encourage reform in the security sectors of states aspiring to gain

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[88] See URL <http://europa.eu.int/comm/enlargement/pas/phare/>.
[89] For the PFP Consortium of Defense Academies and Security Studies Institutes see URL <http://www.pfpconsortium.org/>.

membership in them. To avoid the consequences of loss of leverage at the time of accession, however, aspirant states must be committed to a systematic and continuing process with regular feedback and assistance, both preceding and following the date of formal accession.

Second, the internal reform and adaptation of both institutions is a highly political process. For example, special interests may influence the character of some of the reforms urged upon candidate states, such as the pointed political pressure exerted on the three new member states of NATO to purchase expensive combat aircraft. This political element and its potential to skew priorities in domestic security sector reforms, at either the national or the multinational level, has not been adequately explored in the existing security sector reform literature.

Third, there are some generic advantages in multilateral efforts to spread democratic norms, compared to unilateral efforts. The former tend to minimize the perception that the actor is interfering in the domestic politics of the target state. They also give the possibility for members and candidate states to 'shift the blame' for unpopular and costly reform up to the multilateral and institutional level. In other words, a multilateral regional security organization plays a certain legitimizing function in the effort to spread democratic norms.

Thus, although neither NATO nor the EU yet undertakes to encourage comprehensive SSR in candidate states, they can and do exert significant influence in the respective policy spheres of external security (armed forces and defence reform) and internal security (border management, policing, and refugee and asylum policies). To date, the extent of that influence appears to be more visible in the case of the EU, with its comprehensive and legally binding *acquis*.

The impact of this double process of enlargement on security sector reform in new members and candidate states of Central and Eastern Europe appears mixed. NATO has consistently promoted the norms of transparency and democratic civilian control of the armed forces, but its message and to some extent its effectiveness have been complicated by the demand that candidates meet concurrent (and possibly unrealistic) targets for force structure and capability. The EU's leverage in convincing candidate states to comply with its quickly evolving internal security regime has arguably come at the cost of enhanced autonomy of national executives and a weakened emphasis on democratic values, respect for human rights and accountability. Maintaining a focus on security sector reform *within as well as beyond the enlarged boundaries* may provide the best guide through the risks and opportunities inherent in the enlargement of these key multilateral organizations.