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**THE CIR JOINS THE GLOBAL DEBATE
ON THE USE OF FORCE**

**The report from the Seminar *The Use of Force – European
and American Perspectives***

(Brussels, the 3rd of December 2004)

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**THE CIR JOINS THE GLOBAL DEBATE ON THE USE OF FORCE
(Seminar in Brussels on the 3rd of December 2004)**

Context

Since the end of the Cold War the issue of the use of force has acquired new meanings. Numerous new conceptual and practical questions have arisen for international lawyers, politicians and the military. For members of NATO and the former Warsaw Pact the end of bipolarity effectively meant that thinking about the use of force in terms of self-defence against a large-scale invasion became obsolete or at least of secondary importance. Yet, whilst 'old threats' disappeared they were quickly replaced by new, more immanent ones such as ethnic conflict, nuclear proliferation and the rise of international terrorism. The conflict in the former Yugoslavia brought war and genocide in Europe for the first time since 1945. With the disintegration and collapse of the Soviet state, nuclear technology and materials became more accessible for rogue states and individuals. Finally, instability in the Middle East and the rise of Islamic fundamentalism produced Al Qaeda and other religiously-motivated terrorist organisations capable of an attack anywhere on the globe.

New threats require new responses. In order to address humanitarian catastrophes or terrorist threats states and international organisations have to become more pro-active and look beyond the principle of self-defence. Armed forces must become mobile, fully professional and trained not only to fight wars but also to keep peace and carry out a range of humanitarian tasks. However, whilst the bulk of international community agrees that rules governing the use of force must become more flexible and armed forces must better adapt to carry out other than defensive tasks, there is little consensus beyond these broad principles. The use of force for humanitarian purposes still remains controversial as was apparent during NATO's operation in Kosovo in 1999, which failed to secure the endorsement of the United Nations Security Council. The principle of pre-emptive war as adopted in the US security strategy and carried out in Iraq was rejected by most other states and strongly criticised by the United Nations. Finally, for the time-being, the UN Charter does not accommodate for humanitarian interventions and accepts only self-defensive wars.

The ongoing debate is therefore still far from reaching conclusion. It is also purely reactive – responding to developments in international security rather than trying to foresee them. This is not, however, surprising. After all, reforming international law to the point when interference in states' internal affairs for humanitarian or preventive purposes became legitimate would represent a break-up of the sacrosanct notion of state sovereignty and a sea-change in international law since the treaty of Westphalia (1648). In other words, we are moving into a completely new paradigm of international relations with unforeseeable implications for peace and security.

As enormous as the change may appear it is, however, already unstoppable. In its response to the events of 9/11 the US openly embraced and enacted the doctrine of pre-emption, creating a precedence likely to be used by other states, as indeed was the case with Russia's new doctrine after Beslan. In the meantime, the EU published its own first ever Security Strategy, which openly states that 'with new threats, the first line of defence will often be abroad' and calls for the development of a 'strategic culture that fosters early, rapid and when necessary robust intervention' (www.iss-eu.org). Also the United Nations is currently engaged in the process of reviewing its procedures governing the use of force with a view to allow for a more flexible approach to humanitarian intervention in the future.

CIR's Brussels Seminar

Responding to the need for a more engaged debate, the Centre for International Relations, acting in co-operation with the German Marshall Fund, NATO's Public Affairs Office and the European Policy Centre, hosted a brain-storming session dedicated explicitly to the use of force. The seminar addressed four imminent aspects of the contemporary debate: the US and the EU security strategies and their respective approaches to preventive/pre-emptive actions, United Nations' authorisation of the use of force, NATO's role as a Peace-enforcer and the Polish attitude to the use of force.

The first part of the debate was dominated by considering and comparing the EU's and American perspectives and their respective security strategies. It was generally acknowledged that the US and the EU's security strategies are in fact quite similar with both of them identifying similar threats and defining similar goals and objectives. It was also argued that the doctrine of pre-emption as put forward in the US strategy is in fact not

as new as it seems. For example, most wars fought by Britain in modern era were pre-emptive in nature, including the Second World War. In its first draft the EU Security Strategy (EUSS) also referred to 'pre-emptive' action, although, not defined as war/intervention' – as in the US strategy - but as 'engagement'. In the final version of the strategy paper the adjective 'pre-emptive' was replaced with 'preventive', which was more acceptable for those member states who opposed US's action in Iraq. 'Preventive engagement' was defined in broader than military terms and it was argued that the concept includes a strong political dimension. A practical example of 'preventive engagement' would therefore be the EU's operation in Macedonia, which aside from peace keeping is also concerned with many civilian and police tasks.

The US perspective was represented by a politician from the Republican Party. The representative outlined two traditional aspects of US foreign policy: a reluctant attitude towards the use of force and unilateralism. Historically, the US developed as a pacifistic civilian power unwilling to engage in military conflicts, often associated in America with European imperialism and ethnic nationalism. Following the Monroe doctrine America had also a strong preference for isolation and non-interference in the affairs of other states and international relations in Europe. In the 19th century, with its growing international position the US took upon itself the role of the 'champion of neutrals' but continued to refrain from engagement in European conflicts. Whilst American isolationism was broken during the world wars and the following Cold War, it continues to retain a considerable appeal in foreign policy circles in the US. This tendency is also reflected in the US's attitude towards multilateralism, which has always been ambivalent. Although America supported the creation of the United Nations and the strengthening of international law it always stressed its right to act militarily regardless of multilateral arrangements.

As regards the US's attitude towards the use of force it has gone through a revolutionary change in response to the events of 9/11. In this context the US embraced the doctrine of pre-emption and a pro-active attitude towards tackling potential threats. It was posited during the seminar that the current doctrine of pre-emption must be clarified and more narrowly defined. For example, the situation when the US goes to war on the basis of intelligence reports – as was largely the case in Iraq – should be avoided. Although, according to the representative, the decision to strike Iraq was the correct one, the given

justification (the alleged possession of WMD by Saddam's regime) proved to be unsubstantiated and as such weakened the US's case.

These political viewpoints from both sides of the Atlantic were followed by two institutional perspectives: one from NATO and the other from the United Nations. It was argued in order to survive the end of the Cold war and stay relevant NATO had to adapt to the new security environment, most of all by broadening up its tasks beyond territorial defence. NATO's operations in Bosnia and Kosovo were clear examples that the Alliance may perform stabilising tasks as peace-enforcer and peace-keeper. In other words, NATO has been good for the Balkans but paradoxically the Balkans have been equally good for NATO providing it with a sense of mission in the post-cold war world. In fact, had it not been for the Alliance's roles in the Balkans and Afghanistan it is not clear where NATO would be or even whether it would have at all still existed.

The issue of military capacity and legitimacy was also raised. It was argued that in order to bring results, the use of force must be credible, hence, the need for improving mobility of NATO troops and switching into fully professional armed forces in those member states who still practice conscription. At the same time, however, the best military capacity could fail to achieve desired results if their action is not perceived as legitimate.

The question of legitimacy further addressed in the discussion about the role of the United Nations. The argument focused here on the proposed reform of rules governing the UN's authorisation of the use of force. At the moment the UN may authorise the use of force on the basis of articles 42 and 51 of its charter, both of which refer to self-defence. The room for interpretation of self-defence remains considerable as demonstrated by the Soviet Union's reference to this provision during its invasion of Hungary in 1956 and Czechoslovakia in 1968 or by the UNSC approval of the US's action in Afghanistan on the basis of article 51. However, it has been clear for some time that the UN's authorisation of the use of force must become flexible, first and foremost by providing provisions for humanitarian and pre-emptive interventions. This call for reform was reflected in a report submitted to the UNSC and dealing with the use of force issues (www.un.org). The overall conclusion of the report is that the existing articles 42 and 51 should remain as the key provisions legitimising the use of force, but they should be amended. In particular, the existing provisions should explicitly refer to humanitarian intervention and pre-emption in

the case of a terrorist threat. Preventive war in case of a documented threat of WMD could also be legalised but only as long as it is unanimously approved by all members of the UNSC.

The final paper addressed Poland's experience and its attitude towards the use of force. Whilst Poland had no ambition to lead itself a military intervention abroad, its attitude towards the use of force places it squarely within the group of the so called 'hawks' - the states that are in favour of a pro-active approach towards international security. In the past Poland itself was a victim of inaction and appeasement of belligerent regimes as displayed by its west European allies towards Nazi Germany and the Soviet Union. For historical reasons, there is therefore a natural predisposition in Poland to consider the use of force early and pro-actively as conducive with its own security perspectives and experience.

Poland's past also determines its current view of pre-emption and multilateral security arrangements. It was argued in this context that had France accepted Poland's offer to engage in a pre-emptive strike of Germany in response to the remilitarisation of the Rhinland in 1934, the Second World War might have been avoided. Consequently, Poland's view of the doctrine of pre-emption tends to be positive. Also the Polish attitude towards the UN rules governing the use of force tends to be less legalistic than the views of its European neighbours. In the past the League of Nations did not prevent the outbreak of the second world war that led to the annihilation of one fifth of the Polish population. The United Nations also proved unable to stop the emergence of the Cold War system that left Poland on the wrong side of the division. This rather negative experience with collective security arrangements produce a degree of scepticism in Poland as to the UN ability to secure world peace and stability. Consequently, Poland's view of military interventions is not decidedly influenced by the decisions of the UNSC.

Conclusion and Points for Further Consideration

The seminar demonstrated that there is a growing degree of convergence amongst the key international actors in their attitude towards the use of force. Whilst the US's use of the doctrine of pre-emption continues to be controversial, other actors and primarily the EU, no longer question the need for active engagement, also by military means, outside

their borders. If reform goes through, the UN is also likely to accept pre-emption as a legitimate line of defence, although it would require the authorisation of the UNSC. At the same time there is a growing realisation in America that its doctrine of pre-emption needs to be more precisely defined and to stress the exceptional character of this provision. Overall, it is clear that although considerable differences amongst key actors continue to exist, the general principles of pre-emption and humanitarian intervention are now broadly accepted.

On the other hand, the international community remains as divided as ever in its attitude towards multilateral security arrangements. The US has never accepted the primacy of international law over national law and it is even less likely to do it after the events of 9/11. Poland and many other ex-communist states view multilateralism with a fair amount of scepticism and do not trust in the UN's ability to provide for its security. At the same time most older member states of the EU are fully supportive of the primacy of international law and do not accept military interventions without the UNSC. This view is also reflected in the EU Security Strategy that explicitly conditions the EU's military engagement on the existence on mandate of UNSC.

How might these existing discrepancies be addressed in the future? The seminar identified the need for three major initiatives. Firstly, it is in the interest of all actors involved that the planned reform of the UN and its provisions for the use of force go ahead. Secondly, the US should redefine its doctrine of pre-emption in order to narrow the scope for its possible use in the future. Thirdly, the EU's provisions for the use of force urgently need to be developed and its strict legalistic interpretation must be reconsidered. A success in any of these three areas would surely narrow the room for future disagreements and through this contribute to a more stable international environment.

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Center for International Relations

WHO WE ARE?

The Center for International Relations (CIR) is an independent, non-governmental establishment dedicated to the study of Polish foreign policy as well as those international political issues, which are of crucial importance to Poland. The Center's primary objective is to offer political counselling, to describe Poland's current international situation, and to continuously monitor the government's foreign policy moves. The CIR prepares reports and analyses, holds conferences and seminars, publishes books and articles, carries out research projects and supports working groups. Over the last few years, we have succeeded in attracting a number of experts, who today cooperate with the CIR on a regular basis. Also, we have built up a forum for foreign policy debate for politicians, MPs, civil servants, local government officials, journalists, academics, students and representatives of other NGOs. The CIR is strongly convinced that, given the foreign policy challenges Poland is facing today, it ought to support public debates on international issues in Poland.

The founder and president of the Center for International Relations is Mr Janusz Reiter.

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