



Summer 2006



Sebestyén L. v. Gorka[†]:

Invocation in context

Sebestyén L. v. Gorka analyses the significance of the invocation of Article 5 of the Washington Treaty five years on.



New missions : The invocation of Article 5 has, in the intervening period, been fundamental to retooling the Alliance to equip it with the capabilities to take on operations such as ISAF (© ISAF)

For even the most amateur of armchair historians it is clear that the North Atlantic Treaty Organisation is not only a unique alliance, but also the most successful alliance of modern military history. Unique because it is the only alliance created to face a specific military threat that persists in its existence well after that threat has been vanquished. It is now more than sixteen years since the Berlin Wall was dismantled on November 11th 1989 by residents of East and West Berlin. It is almost fifteen years since NATO's raison d'être, the USSR, dissolved itself, yet NATO still functions today and is busier than it has ever been. What is more, NATO is the most successful alliance of its type because it achieved this great victory, the culmination of forty-plus years of military stand-off, without one rifle-shot being fired in anger across the curtain that divided free Europe from the occupied East. The irony of this last fact, is only compounded by the realisation that the political and military "heart" of NATO's charter, the Washington Treaty's Article Five, was only invoked after the original conflict that motivated its signers was well over, almost ten whole years after that foe had ceased to exist.

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Given the historic and strategic significance of the provisional invocation of Article Five the day after the September 2001 (9/11) attacks against the United States, it is reasonable to present the evolution of the Alliance in three discrete phases: April 1949 to the November 1989 fall of the wall (11/9), the post Cold War (CW) period of readjustment between 1990 and 2001 and the post 9/11 reality. Given the fundamental ways the post-Cold War environment has shaped NATO's present and future, five years on from the invocation of the collective defence clause, it is reasonable to ask the question: what have been the ramifications of article five's coming into force and how has NATO managed the change from a post-11/9 world to the post- 9/11?

SEPTEMBER 11TH AND ORIGINAL INTENT

On September the 11th 2001, the international terrorist organisation known as al Qaeda achieved something that the USSR never did. It killed mass numbers of Americans on American soil. Actually the carnage inflicted on that day was greater than that inflicted sixty years earlier during the attack on Pearl Harbor, the attack that brought America into World War II. On the very next day NATO's highest decisionmaking body, the North Atlantic Council (NAC) agreed that "if it were determined that this attack was directed from abroad against the United States" that it would be regarded as an action covered by Article Five of the Washington Treaty. After classified briefings presented by US officials to NATO member states on October 2nd the condition relating to externality of attack was deemed to have been satisfied, and thus the so-called "commitment clause" came fully into effect.

Although this was indeed the first time that this most important article was invoked by NATO, there are those who wish to undermine the significance of this event and even the importance of Article Five itself. Appealing to the original text, they state that the commitment clause really has no value and was a smoke-screen of sorts, given its very specific wording. For Article Five, although it stipulated that an attack on one shall be deemed to be equivalent to an attack on all and that nations are thus obliged to respond and that military force is an option, it also clearly states that the given nation "will assist the Party or Parties so attacked by taking forthwith...such action as it deems necessary,". This wording has been read by critics to infer that there really is no obligation at all to take the clause seriously. However, if one is to understand the force and significance of the treaty and of the Alliance itself, one must understand the motivations of the original framers.

The treaty, which is otherwise remarkable by comparison to other similar documents in its brevity and clarity, was drafted as a political statement as well as a legally binding treaty document and as such was a compromise between two existing models for collective defence, that of the Rio Pact and the Brussels Treaty. The former pledged signatories to "assist in meeting the attack" of a fellow signatory nation, whilst the Brussels Treaty, stated that member states must "afford the Party so attacked all the

military and other aid and assistance in their power.” The framers of the NATO charter document understood the first to be too weak a formulation and the second to be too all encompassing, given that certain founding NATO members, such as Iceland, could not be reasonably expected to agree to an obligation to provide a military response to an attack, yet by dint of geographic location, or for other reasons, made their own vital contribution to collective defence. As a result the obligation was automatic but not restricted to the military. In this way NATO also sent a political message to the world. As an alliance it respected the will of its member states and allowed them the freedom to choose the nature of the response best suited to their own situation. This characteristic of the Alliance would be cast in sharp relief just six years later when its main adversary created its own formal alliance, the Warsaw Pact Organisation, an involuntary alliance in which the will of the members was not a factor and where all interests were subsumed by those of Moscow and the Kremlin.

At the same time as we try to appreciate the political nuances of the original intent behind Article Five. It is therefore important to remind ourselves of the military reality that both the framers and the signatory heads of state had in mind. At the end of the war the impression was that the Western Europe was greatly out numbered by the remnant forces of the Soviet Red Army. As a result the fear was that should Stalin have so decided, a second blitzkrieg could have been initiated against the West, this time with the intention of spreading Communism not Nazism. Subsequently the scenario was one in which a weak Europe would be assisted upon attack militarily by the United States. Should the USSR invade, then the world’s only nuclear superpower would come to the rescue. It is worth noting that it was in part the fact that the war would have been fought on our continent with the help of forces brought from thousands of miles away, that NATO built into its very own structures the imbalance of forces that has been such a point of argument in recent decades: Europe’s static and heavy forces, versus America’s expeditionary and force projection capabilities.

What was not predicted by the fathers of the Alliance was the scenario in which Article Five would in fact be invoked. On September 11th the USSR and Warsaw Pact did not exist. It was not Europe that was conventionally attacked by a nation-state and its allies, but the United States by a sub-state actor using wholly unconventional means. NATO’s charter had been overtaken by events.

THE NEW REALITY AND THE NEW NATO

The most important question now would seem to be what the consequence of the invocation was; how has NATO coped with the fundamental change in its operational responsibilities? First, it must be noted that the Alliance was not in stasis between 11/9 1989 and 9/11 2001. Although many have criticised NATO for its tardiness to respond swiftly to the end of the Cold War, in terms of ‘historic speed’ the organisation did much even before 9/11. With the declarations of London and Rome it recognised, at least in writing, the momentous changes of the *annis mirabilis*. With the creation first of the North Atlantic Cooperation Council and then the Partnership for Peace, it went beyond

the written word and brought praxis to the relationships with its erstwhile enemies. Then, just five years after fall of the Berlin Wall, NATO deployed its first combat forces and instead of going out of business – as some had hoped for – the Alliance went out-of-area with its involvement in the implementation of the Dayton Accords for former Yugoslavia. Finally, ten years after the freeing of Central Europe, the first three former Warsaw Pact countries, Hungary, Poland and the Czech Republic, were admitted into the Alliance as full-status members.

But what happened after 9/11 and the recognition in October of that year that the al Qaeda attacks were foreign in origin and that Article Five did in fact apply? The answer is a complicated one. Whilst NATO is now active in Afghanistan as part of the ISAF follow-on operations and Provincial Reconstruction Teams (PRTs), and whilst NATO and PfP nations were a part of both the initial Afghan and Iraqi invasions, the strange truth is that despite Article Five coming into force so soon after 9/11, the United States proceeded to execute its anti-al Qaeda missions outside of the framework of NATO. To make things clear, when Richard Armitage, Deputy US secretary of State, first came to NATO headquarters just days after the attacks he stated quite bluntly: “No. I didn’t...come here to ask for anything.” To be fair there are several reasons for this. The first is that the American experience within NATO during the Kosovo campaign of 1999 was less than ideal. “Targeting by committee” was not deemed to be a military efficient mode of operation. Secondly, the United States recognised that whilst NATO had come a long way since the Cold War, it was not a structure designed to execute counter-terrorist operations in Central Asia and the Greater Middle East. This is still the case. Although NATO has since then established new command structures, created new terrorism related competencies and ventured further afield (such as into Africa and Pakistan of late), it is still not designed to be primarily a tool of global counter-terrorism. More obviously, with the follow-up operation to the invasion of Afghanistan being the invasion and regime-change in Iraq, it was clear that several NATO states would not agree to such action and as a result any NATO action against Saddam Hussein’s regime, would be held hostage to the need for consensus at the NAC.

ARTICLE FIVE AND THE FUTURE

Some have looked for a simplistic answer as to why Article Five did not lead to a more robust NATO response to the terrorist threat. They argue that the problem has to do with a lack of a shared threat perception amongst the current members of NATO. A loss of what Phillip Gordon has called the “glue” that held NATO together for so long. I tend to disagree. The difference is not a technical one of threat assessment, but a political problem. If one consults, for instance, with the German and French professionals whose job it is to assess the threat to their nations, there is no question as to what the looming menace is: fundamental Islamist terrorism. And with the attacks of Madrid and London, we know that Europe is no longer a continent at peace. At the same time, NATO is not a club of homogenous states. There are those members, foremostly the new NATO states, for whom collective defence of their territorial integrity from external attack is still most important, and may even be more important than protection from international terrorism.

As a result, whilst EU watchers have for years been talking of the possibility of a multispeed European Union, NATO has already created the reality of a multispeed Alliance, or at least a NATO that provides many things to many customers.

Article Five today is still for many a valid cornerstone of the Alliance. For others the clause retains a greater political import. Then there are still others that see NATO's value in practical terms as lying currently in its new out-of-area missions, missions that are not a part of the traditional menu of warfighting skills. And finally there are those, who - like myself - believe that as an organisation NATO has also demonstrated that it can adapt over time to new challenges, and that in time Article Five may come to be understood more and more as having direct relevance not to scenarios of invasion, but to the ways in which NATO members can collectively fight the scourge of international terrorism. As a result I think it pointless to encourage any further the debate on whether NATO is any longer a collective defence organisation or whether it is turning into an organisation for collective security. It satisfies both needs and will continue to do so for some time and as such it has capabilities that no other international organisation has. As to Article Five and its historic invocation, we may do well to agree with the last Secretary General's assessment: *"It is still too early to say what the decision on Article Five will mean in practical terms for the immediate future."*

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