



SITREP

THE JOURNAL OF THE ROYAL CANADIAN MILITARY INSTITUTE



—LOCKHEED MARTIN

*The F-35 Joint Strike Fighter—
is it right for Canada?*

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From the Editor's Desk



Far distant from our peaceable kingdom, world events continue apace:

- the NATO no-fly mission in Libya appears to have peaked. It is unable to influence further without 'boots on the ground intervention' and a break to the stalemate between Gadhafi's forces and the insurgents—proving once again the fallacy that air power alone can force an end to ground combat. Where does NATO go from here?
- Bashar Assad of Syria continues to kill protesters that demand a regime change;
- Hosni Mubarak, Egypt's deposed leader, is in custody in a Cairo military jail awaiting charges of ordering Egyptian troops to fire on civilians in an effort to quell the protest against his regime; and,
- The decade-long search for Osama bin Laden has finally concluded.

At home the election of a majority Conservative government and the honou-
ring of their election platform to reduce the deficit will no doubt impact upon
the military, especially given perceived cost savings garnered by the end of combat
operations this summer. However the costs associated with ending an operational
mission and repatriating vast amounts of equipment, vehicles and weapon systems
cannot be overlooked.

Captain (Navy) Tom Tulloch, from his unique position serving on the staff
of NATO's Maritime Command Headquarters in Northwood, United Kingdom
and previously as Chief of Staff to the Commander of Standing NATO Maritime
Group One off Somalia in 2010, provides a fascinating perspective on the piracy
that continues to prevail despite the continuous presence of the world's navies off
the Horn of Africa. The pirate business model remains intact and until western
democracies give their forces in theatre the means and ways with which to combat
piracy effectively there will be no end to this.

In light of Osama bin Laden's demise, Jonathan Preece's fine examination of the
use of anticipatory force, prevention and pre-emption in the evolution of NATO's
future strategic doctrine to counter terrorism is most timely.

David McDonough presents an excellent examination of the politically
charged F-35 (JSF) procurement (production has started) and in so doing presents
alternative solutions that reflect budgetary restraints and are more fitting the most
likely yet least dangerous threat, rather than the F-35 solution which is argued to
be needed to address the most dangerous yet least likely threat.

Barak Mendelsohn offers that Osama bin Laden's death is a devastating blow
to al-Qaeda, but it is not the end of jihadi terrorism. While it is demoralizing for
the whole jihadi camp, it will not eliminate the motivation to attack the U.S. and is
likely to trigger revenge attacks. But from a strategic point of view the death of bin
Laden could mark a critical junction in the process of demilitarizing the war on
terrorism and the beginning of the end for U.S. presence in Afghanistan.

Further to Osama's demise, Eric Morse adds a commentary on why the same
technique cannot be used on Gadhafi.

Dr. Jack Granatstein examines the recent Liberal and NDP election platform
positions on peacekeeping. Both were enthusiastic about serving the United Nations
but the then Liberal leader stated that the UN Security Council should decide if
Canadian troops are to be committed to operations.

Colonel (ret'd) Chris Corrigan
Editor and Chair of the Security Studies Committee

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The Problem With Pirates

by *Captain (Navy) Tom Tulloch*

At the time of writing (end March 2011) Somali pirates hold 26 merchant vessels in anchorages off the east coast of Somalia and 574 innocent merchant seamen hostage. Piracy has netted hundreds of millions of dollars in ransom payments since hijackings began off the Horn of Africa in 2004 and accelerated in early 2008. In response, the nations of most of the developed world have sent naval forces to the region to disrupt piracy. Between 15 and 20 warships currently operate there under various coalitions and alliances such as NATO and the European Union, with an additional dozen or so deployed under national authority, such as from Russia, China, India and Japan, for counter-piracy. Yet the problem has not been solved; in fact the number of ships successfully captured by Somali pirates continues to average between 3 and 6 per month. How can this be?

In order to understand why Somali piracy continues to enjoy success it is necessary to examine the conditions under which it flourishes, the tactics and procedures employed by the pirates, and the limitations on and of the naval forces sent to deal with the problem.

Somalia—a Failed State

Somalia is a failed state, having been without an effective central government since President Siad Barre was deposed in 1991. The current internationally recognized authority in Somalia is the Transitional Federal Government (TFG), which was established in 2004. The TFG however has been battling Al Shabaab insurgents for control of the capital Mogadishu and limited territory in Southern Somalia for some years. Even with the assistance of African Union troops only minimal headway has been made; the TFG has therefore little to no ability to exert control over the country at large. North-west Somalia years ago declared itself the Independent Republic of Somaliland and, although not officially recognized internationally, has enjoyed a relative degree of stability. A second region, Puntland, occupying North-east Somalia proclaimed

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itself autonomous in 1998; however scant control over its territory or coastal waters has been able to be exercised by the meagre Puntland Authority to date. Furthermore Somalia, in addition to being fragmented and fought over by various official and unofficial government bodies and insurgent forces, is also divided into a number of clan groupings which exercise varying degrees of control over the activities in their regions. What little local authority exists is virtually ineffective. Economically Somalia is one of the poorest countries in the world, with a Gross Domestic Product (GDP) per capita in the mere hundreds of dollars and the vast majority of the population living in poverty. The current situation in Somalia therefore is one of limited fragmented control by a broad spectrum of disparate groups, with much of the country essentially lawless and destitute — the perfect situation to permit piracy to flourish.

Geographically Somalia lies adjacent to one of the busiest shipping routes in the world. The shortest route by sea between South/ Southwest Asia and Europe/ Eastern North America is through the Suez Canal, the eastern approach to which is through the Gulf of Aden off Somalia's north coast. Over 20,000 merchant ships transit this route annually—some 400 per week. The Gulf of Aden separating Somalia and Yemen is only 500 miles long and 150 miles across at its widest point—essentially a chokepoint through which maritime traffic must pass. The initial forays into piracy in the region occurred here, where the lack of maritime and government authority combined with the close proximity to the Somali coast of lucrative targets, the means to hunt and capture them, and a willingness to undertake piracy merged to great effect. Initially taking the form of sporadic, often violent maritime robbery beginning in 1989, it evolved into hijacking for ransom around 2004, as the potential for high payoffs escalated and pirate leaders gained experience and refined their practices.

Allied Forces

Naval and maritime air forces assigned to the counter-piracy mission operate either under independent national control, in the case of nations such as Russia, China, India, Japan and Malaysia, or as part of one of three alliance groupings. NATO maintains a Combined Task Force in theatre comprised of one of its two Standing NATO Maritime Groups (SNMG) of three to eight frigates or destroyers. Canada has contributed

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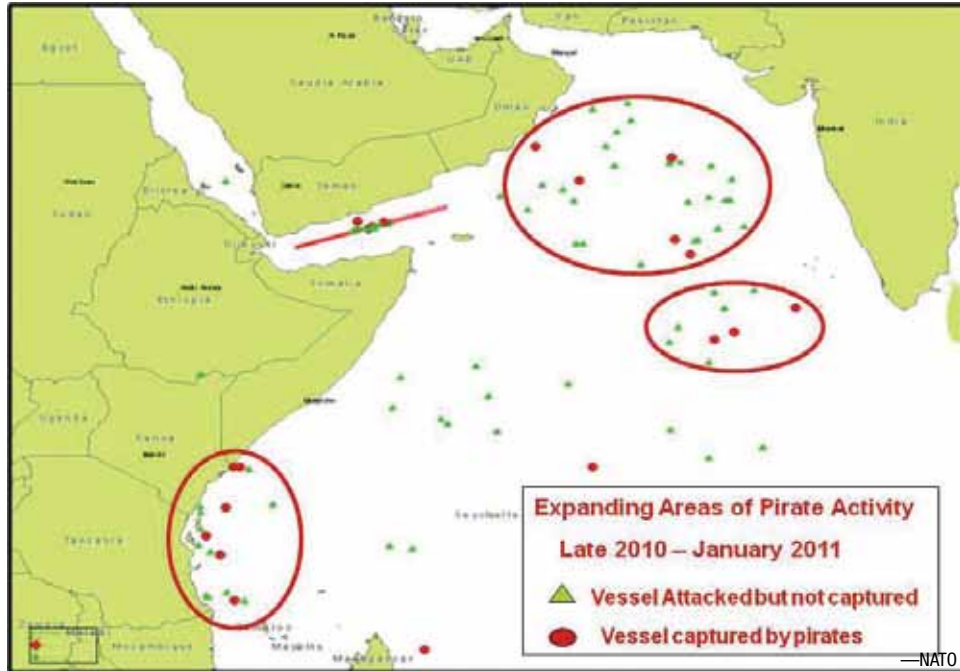
two frigates to this force in recent years; HMCS *Winnipeg* in early 2009 and HMCS *Fredericton* in late 2009/ early 2010, in addition to permanently filling a seagoing position on the staff of the Commander of SNMG 1. The European Union has deployed a force of similar size, and a third multinational group operates under the auspices of the US-led Combined Maritime Forces (CMF). While nations and alliances exercise command over their own forces, the overall military counter-piracy effort is coordinated via regular Shared Awareness and Deconfliction (SHADE) meetings in which all parties participate. At-sea coordination between these different groups, independent deployers and transiting merchant vessels is achieved via a secure Internet based system called Mercury. The tactical planning and command of the NATO counter-piracy mission, Operation *Ocean Shield*, is executed from its Maritime Command Headquarters in Northwood, United Kingdom, where Canada has 12 officers and petty-officers on the staff, all of whom are heavily involved in the operation.

Pirate Tactics and Counter-Piracy—Gulf of Aden

Pirate tactics vary across the region. Pirates in the Gulf of Aden generally operate in single, fast “attack” skiffs of between 6 and 14 metres long, with a crew of 5 to 9 armed with easily-obtained Kalashnikov (AK-47) assault rifles and rocket-propelled grenade (RPG) launchers. Their tactics are to loiter in the main shipping lane between Somalia and Aden for up to 3 or 4 days until a suitable vessel is located. They then rapidly bring their craft alongside and swarm aboard by means of aluminum ladders, quickly overpowering the crew with their weapons. If the ship is undefended, this normally can be accomplished in about 15 minutes. The ship is then diverted to an anchorage while the pirates make their demands for ransom—a process that can take many months but can net the pirates as much as \$10 million.

The priority of naval forces since their arrival in the region has been the safety of shipping in the Gulf of Aden, as merchant vessels have no choice but to transit this body of water unless they opt to go around the southern tip of Africa, which is not a cost-effective option in most cases. An Internationally Recommended Transit Corridor (IRTC) has been

established in the Gulf of Aden for merchant traffic, enabling naval vessels to focus their defensive patrols there. Nations such as China, Japan and India have chosen to escort shipping through the Gulf convoy-style. The NATO Shipping Centre (NSC), part of the Northwood Headquarters, is NATO’s link to the merchant shipping community and serves also to advise them of risk areas—Canada currently provides three Naval Reserve officers under



reserve officers under CEFCOM direction to augment the NSC for counter-piracy. Merchant ships have been encouraged to adopt self-defence measures such as employing extra lookouts, rigging fire hoses and barbed wire to deter access, manoeuvring at speed when under attack, and as a last resort, having a “panic room” or safe compartment to which the crew can retreat if pirates

are able to board. Additionally, many shipping companies have begun to hire commercial armed protection teams to defend their vessels. The combination of merchant practices and naval patrols has made it significantly harder for pirates to achieve success in the Gulf of Aden; however there are still many attempts and an average of one merchant vessel per month is still captured here.

Pirate Tactics—Somali Basin and Arabian Sea

If piracy in the Gulf of Aden has become more difficult, there are other options available to the pirates. Indeed localized counter-piracy success in the Gulf has forced pirates further afield. The entire east coast of Somalia overlooks the Indian Ocean, and pirates have been unafraid to venture hundreds of miles out to sea to hunt. Weather here has played a factor, since the seasonal monsoons periodically create seas that are too rough for small pirate skiffs to operate. These monsoons occur twice yearly, from June to September, and again from December to March. When the seas are calmer during the transition periods between monsoons, pirates put to sea in small attack groups, generally consisting of a large ‘whaler’ or mother-skiff loaded with supplies, weapons and fuel accompanied by two smaller attack skiffs—sustainable for 3 to 4 weeks. As merchant shipping is able to avoid the east coast of Somalia by a considerable distance, these attack groups have enabled pirates to reach the areas where shipping must transit: the Mozambique Channel, off Madagascar, near

the Seychelles, towards the Maldives, and into the Arabian Sea. Pirate attacks have occurred within 200 miles of India, some 1500 miles from Somalia. Pirates have also taken to capturing dhows, the indigenous cargo vessels that ply the region, and fishing vessels, and using them as motherships with their crews held hostage on board to transport their attack skiffs well out into the broader Indian Ocean. In a number of cases there has been evidence of collusion between pirates and dhow crews for a share in the profits. Thus the area of pirate activity now stretches across thousands of miles, from the Southern Red Sea to India, and from the Arabian Sea to Madagascar—an area comparable in size to the whole of continental Europe from Lisbon to Moscow.

A recent, disturbing development has seen the pirates making increased use of captured merchant vessels in addition to dhows and fishing vessels, as motherships, to increase their range and transit speed and to negate the effect of the monsoon, thereby permitting them to operate year-round. January and February this year saw unprecedented numbers of attacks taking place in the Arabian Sea, previously too difficult for pirate operations due to distance and sea state. It may be only a matter of time before captured merchantmen are used for direct attacks themselves, rather than simply for transportation and as force multipliers.

Intervention Options

Pirates use a series of camps scattered along the coast of Somalia, predominantly on the east side of the Puntland region, to amass their supplies for launching attack groups and as base anchorages to hold their captured merchant vessels awaiting ransom. Rules of Engagement (ROE) granted by most western governments to their navies prohibit mounting hostage rescue operations against pirated merchantmen for fear of hostage injury or death; as such, once pirates have taken the crew of a ship hostage they generally find themselves safe from attack by naval forces. Pirates have grown to understand this restriction and they do not hesitate to threaten harm to their hostages should naval vessels come too close for their liking. This restriction prevents action to recover any pirated

merchant vessels, whether they are being held at anchor or are being used as motherships, and has had the effect of providing the pirates with a great deal of freedom of action once they have taken hostages. The pirates have shown willingness to torture and even kill hostages, although this has to date not been widespread. The increasing use of “panic rooms” or safe compartments for the refuge of crews under attack has been a positive development, as it has meant that naval forces can launch assaults, and have done so, to retake ships boarded by pirates. In these cases it has been assessed that the pirates have not yet been able to take the crew hostage, and so there is little likelihood of the crew being harmed in the process.

Naval forces in the region have been permitted, by United Nations Security Council Resolutions, to operate within the territorial waters of Somalia (normally extending 12 miles offshore) for counter-piracy operations. This enables them to go right up to the shore line, however ROE directed by western governments prohibit any operations ashore (a “no boots on the ground” policy). Thus, counter-piracy forces can only conduct surveillance and observe the build-up of pirate supplies ashore, but are powerless to do anything about it until they take to the water. Navies may intercept the vessels at sea and, if it can be determined that their intent is piracy, seize their weapons, boarding equipment, extra fuel and the skiffs themselves. Often however when naval forces approach, the pirates simply jettison their incriminating evidence and claim to be fishermen — despite the lack of actual presence of fishing gear... Many are caught, however with a coastline 1500 miles long and a vast number of dispersed pirate camps there will always be some that slip past, and once out into the vastness of the Indian Ocean they are very hard to find.

Legalities

Another difficulty for naval forces lies in the legal framework (or lack thereof) for dealing with captured pirates. For centuries piracy was treated very harshly indeed, with pirates being killed and executed when caught, their vessels sunk and their hideouts destroyed. Nowadays however, in our more



Cargo dhow as pirate mothership. On the foredeck can be seen two pirate attack skiffs covered and disguised by fishing nets.



Great Pumpkin pirate camp, on the East coast of Somalia, showing the assembly of vessels and supplies in preparation for the post-monsoon calm.

enlightened times such ruthlessness is frowned upon. Pirates today are treated as civilian criminals, with all the expansive interpretations of individual human rights inherent in that status. If pirates are captured they must be tried in court, however there is no international court in place with the authority to do so. Thus captured pirates (or rather “suspected” pirates) must be prosecuted in the court of whichever country is able and willing to take on the task, under the civilian criminal procedures of that nation and with all of the associated entitlements and requirements for evidentiary standards. However, the sheer logistical nightmare of ensuring the ‘proper’ gathering and continuity of evidence, of administering rights, of transporting suspects, witnesses, translators and sufficient evidence to a location thousands of miles from the scene of the ‘crime’ and of ensuring the availability of the naval expert witnesses at a trial that could stretch over years (and therefore tying up the associated naval vessel that made the ‘arrest’ for an eternity) makes this a highly impractical option.

These huge hurdles result in many captured pirates that have been turned over to legal authorities being unlikely to stand trial or to be convicted. Furthermore, many western nations are reluctant to take on the prosecution task because of the fear of having to grant refugee status to the pirates once they are on home soil. Some agreements that were established with regional nations such as Kenya to try pirates have fallen through because of the excessive burden it places on its courts and prisons. Pirates cannot be handed over to Somalia authorities for prosecuting and imprisoning as there is very little authority in the first place and it is impossible to ensure their human rights would be respected. Some nations such as the Seychelles, while willing to try and imprison pirates, lack the capacity to do so. Other regional nations are simply unwilling to consider accepting pirates for prosecution.

The end result is that when caught, pirates are often simply disarmed and released freely ashore back into Somalia, as the legal considerations are deemed to be excessively onerous to be effective. This “catch and release” approach, while contentious to some procedurally-minded westerners, at least disrupts the potential for pirate activity from that particular pirate group for a period of time until they can reconstitute their resources. Moreover, the “threat” of incarceration in a western or even regional prison is of virtually no deterrent to pirates who are willing to venture into the far reaches of the ocean and risk death for a big payoff. While they are somewhat risk averse, what constitutes an acceptable level of risk to a Somali pirate bears no resemblance to a western understanding of risk.

The Cost of Piracy

The ransom payments are but a small part of the overall economic impact of piracy. Increased insurance rates for merchant vessels; the added costs to shipping companies to avoid high risk areas, to hire security teams and to ‘harden’ vessels against attack; the costs to deploy and sustain naval forces, and the prosecution costs, as well as the secondary economic impact to local tourism and fishing industries and from discouraged regional investment are substantial. While difficult to calculate accurately, conservative estimates place the total cost of Somali piracy in the range of \$2 to \$3 billion (US) annually—some assess this figure to be as high as \$12 billion. This in addition to the hundreds of seafarers who have been and continue to be held in captivity for up to a year, suffering deprivation, malnutrition, torture and on occasion, death.



Cargo vessel MV *Polar*, captured and used as a mothership

—NATO

Status Quo

The naval forces deployed to the Horn of Africa region have achieved a measure of success, despite the restrictions imposed upon them. Throughout the region in 2010, coalition forces disrupted 145 pirate groups and individual vessels. There were a further 176 pirate attacks on merchant vessels, of which 45 succeeded, out of a total number of vessels plying the region of over 20,000.

The difficulties continuing to face the naval forces there are indeed significant — so much so that piracy continues to prevail despite the continuous presence of the world’s navies off the Horn of Africa now for over two years. The limitations imposed by western governments against rounding up pirates as they gather ashore and against attempting hostage relief operations has effectively ceded the playing field to the pirates; and the essentially non-existent legal framework to deal with pirates whose human rights have somehow trumped those of the innocent mariners on whom they prey continue to hamper the ability of counter-piracy forces to deal with them once caught. The pirate business model remains intact and until western democracies give their forces in-theatre the means and ways with which to combat piracy effectively there will be no end to this plague. ❁

The views expressed are those of the author and do not necessarily reflect the views of the Institute or its members

The Elephant in the Room: Anticipatory Force and the North Atlantic Treaty Organization

by Jonathan Preece

The terrorist attacks of September 11, 2001, prompted the North Atlantic Treaty Organization to reevaluate its deterrence strategy and invoked debate on a wide array of policy options. As such, the concept of anticipatory force has gained considerable attention amongst NATO members over the last decade. To be sure, debate concerning NATO's use of anticipatory force is not entirely new; this issue was, for example, a source of contention following NATO's humanitarian intervention in Bosnia and Kosovo in the 1990s. However, the interrelated threats of failed statehood, weapons of mass destruction and non-state terrorism have reshaped the debate by elevating anticipatory force to the realm of self-defence.

This paper will analyze the underlying notion of anticipatory force in NATO's strategic doctrine and what this emergent theme could mean for the future of the Alliance. This topic will be approached by examining changes in the transatlantic political climate since the terrorist attacks of September 11, 2001 and the status of anticipatory self-defence under international law. The role that threat perception and other practical considerations will play in determining NATO's future use of anticipatory force will then be explored. It will be concluded that despite the emergence of new security threats and subsequent developments in political and legal understandings of anticipatory force, this remains a pervasive yet obscure theme in NATO's evolving strategic doctrine.

Before the terrorist attacks of September 11, 2001, the United States shared with NATO the understanding that military deterrence was the most credible and cost-effective way of maintaining transatlantic defence. These events, however, precipitated a drastic rethinking of American foreign policy, the initial result of which being the 2002 National Security Strategy (NSS). Along with endorsing unilateral retaliation and emphasizing the importance of democracy promotion through regime change, the NSS also stressed the potential need for anticipatory military action to avert future terrorist attacks. Articulating this position, the 2002 NSS states "we will not hesitate to act alone, if necessary, to exercise our right of self-defence by acting *preemptively* against such terrorists, to *prevent* them from doing harm against our people and our country... (italics added)."¹ This approach to denying terrorist organizations access to allies, territory and resources was elaborated upon in the 2006 National Security Strategy. While the language used in this later version changed from 'preemp-

tion' to 'prevention' – a subtle yet important legal distinction which will be discussed later – the message was the same. As stated in Chapter V of the 2006 NSS; "If necessary...under long-standing principles of self-defence, we do not rule out the use of force *before attacks occur*, even if uncertainty remains as to the time and place of the enemy's attack. When the consequences of an attack...are potentially devastating, we cannot afford to stand idly by as grave dangers materialize (italics added)."²

The application of these principles through the American-led invasion of Iraq proved to be a highly divisive issue among NATO allies. While, for instance, the United Kingdom was quick to lend support, the unilateral nature of this endeavor and the questionable pretexts under which it was pursued generated criticism from allies such as Germany, France and Canada. A number of European governments argued that unilateral military action would undermine international law, embolden adversaries, and increase the likelihood of future conflict. As argued by Karl-Heinz Kamp, controversy surrounding the Iraq war had the effect of obscuring debate on the use of anticipatory force.³ While on one hand there was a great deal of skepticism and distrust in the transatlantic world regarding American foreign policy, the concept of anticipatory self-defence had already crept onto NATO's agenda by the time Operation Iraqi Freedom was launched in March of 2003. Observing this trend, Tomas Valasek stated; "Behind the stormy front of the U.S.-European confrontation over Iraq, both sides have been quietly working out just what exactly those new realities are following 9/11, and how best to deal with them. They seem to be coming to conclusions that are not entirely dissimilar."⁴

In December of 2001, Alliance Defence Ministers gave NATO authorities the task of drafting a new approach to international terrorism. The result of this requisition was NATO's Military Concept for Defence against Terrorism, endorsed by NATO Heads of State and Government on November 21, 2002. In light of the threats posed by global terrorist networks and the horizontal proliferation of weapons of mass destruction, this document calls for a more dynamic strategy and, in so doing, implicitly supports the concept of anticipatory force. For instance, in the section on 'concept development' it is stated that, "NATO's actions should...work on the assumption that it is preferable to deter terrorist attacks or prevent their occurrence rather than deal with their consequences..."⁵ Outlining the capabilities needed to implement this approach, it goes on to state that, "[o]nce it is known where the terrorists are and what they are about to do, military forces need the capability to deploy there. Due to the likelihood that warnings will be

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received only at a very short notice, forces need to be at a high state of readiness.”⁶ Although the terms ‘anticipatory force’ and ‘preemption’ were not included in the final draft due to objections from France and Germany, NATO’s endorsement of this document was significant insofar as it acknowledged that deterrence, while still a cornerstone of NATO’s strategic doctrine, may not be enough to address contemporary security threats. It implied that to protect Alliance territory, citizens, infrastructure and military forces from terrorist attacks or the threat thereof, NATO must be prepared to conduct forward military operations both in anticipation *and* response to terrorist plots.

European leaders also expressed this understanding in the December 2003 European Union Strategy document titled ‘A Secure Europe in a Better World.’ Articulating the European Union’s view of the international security environment, this document states; “In an era of globalization, distant threats may be as much a concern as those that are near at hand... The first line of defence will often be abroad. The new threats are dynamic. Left alone, they will become more dangerous... Conflict prevention and threat prevention cannot start too early.”⁷

In the years following 9/11, the concept of anticipatory force was also addressed in the defence policies of a number of European NATO states. For example, France’s *Programme Militaire, 2003-2008* makes specific reference to the French military’s *capacite d’anticipation* and the option of preemptive force in response to the threat of non-state terrorism. Speaking in September of 2002, French Minister of Defense Michèle Alliot-Marie stated; “Outside our borders, within the framework of prevention and projection-action, we must be able to identify and prevent threats as soon as possible. Within this framework, possible preemptive action is not out of the question, where an explicit and confirmed threat has been recognized.”⁸

As Tomas Valasek points out, once the events of 9/11 and similar terrorist attacks in Karachi and Bali began to sink in, policy makers in Germany, France and elsewhere in Europe began to change their tone towards non-state terrorism and the looming threats of WMDs and failed and fragile states. To be sure, the aforementioned developments did not constitute a transatlantic consensus as differences in opinion persisted on this subject. However the concept of anticipatory force had become a prominent, yet hazy theme in transatlantic security in the years immediately following September 11 2001.

At the Lisbon Summit in November 2010, NATO Heads of State and Government formally adopted the Alliance’s new strategic concept titled “Active Engagement, Modern Defence.” Serving as a guide for the next phase of NATO’s strategic evolution, this document reaffirms NATO’s *raison d’être* of maintaining the common defence and security of the North Atlantic Region. In order to adapt to the contemporary security environment and confront a broad set of challenges posed by both state and non-state actors, the New Strategic Concept states that NATO must improve its collective defen-

sive, crisis management and cooperative security capabilities. Though never specifically addressed, the theme of anticipatory action is found throughout this document. For instance, in defining NATO’s approach to ‘crisis management’ it is stated that, “[t]he best way to manage conflicts is to prevent them from happening. NATO will continually monitor and analyze the international environment to anticipate crises and, where appropriate, take active steps to prevent them from becoming larger conflicts.”⁹ It goes on to state that NATO will actively employ a mix of political and military tools to address the full spectrum of crises; before, during and after they occur. To this end, the New Strategic Concept calls for enhanced information sharing amongst allies to “better predict when crises might occur, and how they can be prevented and to further develop doctrine and military capabilities for expeditionary operations.”¹⁰ It should be noted that the New Strategic Concept in no way endorses the unbridled use of anticipatory force. In contrast, this document affirms that anticipatory military action ought to be pursued in combination with civilian and political efforts. Furthermore, the New Strategic Concept – as is the case with all other NATO policies – is framed within the bounds of international law. This means that the sort of anticipatory action that is referenced here and in other NATO documents is subject to the United Nations and the rules embodied therein. However, just as the international political climate has evolved since September 11, 2001, so too has the status of anticipatory self-defence under international law.

The legitimate use of anticipatory force in international law has traditionally rested on the distinction between acts of prevention and those of preemption. The difference here is based on the existence of a sufficient threat: whereas preventative measures are those which respond to an immediate and pressing threat of aggression, acts of preemption attempt to stop a potential threat before it materializes. Unlike preventative force which is grounded in the right to self-defence, preemptive force is strictly forbidden in international law due to its speculative nature. This division can be traced back to the *Caroline* Case of 1838 which, through a series of communications between American Secretary of State Daniel Webster and his British counterpart, outlined the conditions under which the right to self-defence could be invoked. This communiqué established that in order to justify an act of anticipatory self-defence, a state must demonstrate the ‘imminence’ of an attack, the ‘necessity’ of prevention and the ‘proportionality’ of this response. These principles have long served as the basis of international law governing interstate conflict. Following the terrorist attacks of September 11 2001, however, it was widely accepted that the idea of anticipatory self-defence had to be rethought. In particular, the limitations imposed on states through the condition of imminence became a source of contention.

Generally speaking, conventional state-to-state wars can be forecast through observable trends. Aggression by one state against another would, for instance, be preceded by the use

of propaganda, buildup of arms, mobilization of troops, and massing of military forces along state borders. Rather than waiting for an attack to take place, it is commonly accepted that in light of such observations, a threatened state is justified in exercising preventative force. Illustrating this point, the UN accepted Israel's preventive response to Egyptian aggression in 1967 but condemned Israel's bombing of an Iraqi nuclear reactor in 1981 because there was no imminent threat of attack at that time.¹¹ Due to their clandestine nature and unconventional tactics, non-state terrorist groups are, however, capable of inflicting large scale destruction without producing the same warning signs. In the aftermath of 9/11, this realization created a dilemma, as the expectation that a threat be 'imminent' before an act of anticipatory self-defence could be justified seemed to place an imprudent burden on the state. Because it is nearly impossible to defend against terrorism at all times and from all places, the Bush Administration argued that strict adherence to this principle would benefit terrorist organizations by conceding the advantage of first strike. Given the potentially devastating effects of terrorism, it was held that the condition of imminence amounted to a suicide pact. The threat of non-state terrorism thus blurred the traditional distinction between legitimate and illegitimate anticipatory force.

It would be incorrect to claim that the Bush Administration's response to the terrorist attacks of September 11, 2001, established a new norm of self-defence. However it can be said that the emphasis previously placed on temporal imminence has given way to a more flexible interpretation of this particular standard. The International Court of Justice recognized as early as 1997 that a threat could be temporally distant yet nevertheless imminent depending on the likelihood of the attack and the gravity of the threat. The international community's reaction to the terrorist attacks of September 11, 2001, reinforced this position.

By implicating the Taliban in the September 11 terrorist attacks via its sponsorship of the al Qaeda terrorist network, the United States took military action against Afghanistan for the explicit purpose of forestalling future attacks. According to Alex Bellamy, the international community's acceptance of this rationale confirmed that "[i]n situations where a state can demonstrate that an actor has the intention and means to launch terrorist attacks against it or its allies, it is reasonable to suggest that the 'imminence' test is satisfied even if it is unsure of the precise time and target of the anticipated attack."¹² Consistent with this position, international lawyers have adopted a qualitative understanding of imminence whereby anticipatory force is justified when any further delay in countering the intended attack would result in the inability of the threatened state to effectively defend itself.¹³ While a state must still demonstrate evidence of a threat in order to justify an act of anticipatory self-defence, it is generally agreed that the condition of temporal imminence should not outweigh the state's responsibility to protect its population from non-state

terrorism. The right to use anticipatory force seems to have been expanded to include, in some instances, acts that would have traditionally been defined as preemptive and thus unjust in nature. Today, debate concerning preemptive self-defence against non-state actors no longer centers on *if* this right exists, but on *when* such an action ought to be used.

The trends that have been identified thus far are significant in that they suggest that NATO's use of anticipatory force is more probable than it was in the years before September 11, 2001. The post 9/11 security environment has seen NATO and its member states acknowledge anticipatory force as a potential means of defence against terrorism and other byproducts of instability abroad. Consistent with this shift, the legal status of anticipatory self-defence has been modified in a subtle yet significant way. Ostensibly, these developments indicate that NATO states are more willing to engage in acts of anticipatory force and that the legal grounds for such action have been expanded in response to non-state terrorism. For some, these trends are worrisome as the use of anticipatory force could have dangerous implications for international peace and security. As Benjamin Barber has stated, "shooting first and asking questions later...opens the way to tragic miscalculation... [and] sets a disastrous example for other nations claiming their own exceptionalist logic."¹⁴ While the trends analyzed thus far highlight NATO's continued shift away from a reactive defence policy, it should not be concluded that NATO is bound to pursue a more aggressive or antagonistic approach to transatlantic security. Rather, it should be noted that National Security Papers and other policies are subject to interpretation and revision. Furthermore, legalities related to military action are not the only factors that limit policy options. In democratic states, the decision to go to war is subject to the will of the people insofar as constituents hold governments accountable for their actions. In addition to policy statements and legal standards, decision makers must also make a number of practical considerations based on, for example, national interests, capabilities, and available resources.

Despite the fact that NATO has recognized the potential need for anticipatory action, disagreement remains on what such a response would actually look like. As Karl Heinz-Kamp points out, anticipatory action encapsulates a full spectrum of policy options ranging from 'military' to 'semi-military' in nature. In addition to military recourse involving intervention and regime change, 'semi-military' options include interruption of information systems, intercepting ships and aircraft, comprehensive blockades, acts of sabotage, and surgical strikes by special forces personnel.¹⁵ Generally speaking, these 'semi-military' alternatives are more likely to gain public support in the transatlantic world than larger military commitments. This is especially true at present date, as NATO's lengthy engagement in Afghanistan has diminished public support for major expeditionary operations. Compounding

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Canada and the F-35 Procurement: An Assessment

by David S. McDonough

Earlier this year, the Conservative government announced the planned procurement of 65 F-35a Lightning II fighter jets, also called the Joint Strike Fighter (JSF), to replace its aging fleet of CF-18 Hornets. With the first delivery expected in 2016, this aircraft will arrive just as the CF-18s—fresh from a \$2.6-billion modernization program to extend their service life—are gradually retired.

This announcement has sparked significant controversy. The government's decision to not seek competitive bids for the CF-18 replacement has raised alarm bells amongst the opposition parties and prominent commentators. And at an estimated cost of \$9-billion, and \$16-billion if one includes support and maintenance, the sheer price of this equipment purchase has itself proven controversial.

Critics have been particularly vocal on what is essentially the single-sourced nature of the deal, and not without good reason. There were clearly other possible fighter alternatives to the F-35, such as the F/A-18E/F Super Hornet and the Eurofighter Typhoon. The government's claim that only stealthy fifth-generation jet fighters, such as the F-35, were suitable seems a bit disingenuous. Equally, with the venerable CF-18s still having nearly a decade of active service life, Canada does not have any pressing or operational military need for the F-35 platform.

True, the Conservatives have been quick to point out Canada's role as an active participant in and financial contributor to the JSF program. And they warn of the possible economic consequences of not purchasing the fighter, specifically the stunting of Canada's aerospace industry and possible cancellation fees. But Canada's role in the JSF partnership, including its financial contribution to the aircraft's design

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and development, was a means to secure contracts for its aerospace industry—it did not mean that the country made a definite commitment to purchase the F-35. Alan Williams, recently retired assistant deputy minister for materiel at the Department of National Defence (DND), also points to a withdrawal clause in the 2006 JSF agreement. As he notes, this would allow Canada to drop out of F-35 development with minimal financial costs to pursue an open competition process, and possibly save upwards of \$3-billion.



F-35 BF-1 flight 88 at NAS Patuxent River, Md.

This raises another important concern about the F-35 purchase—namely, the estimated \$16-billion price tag. In the current climate of economic uncertainty, this high figure should in itself give one pause. Importantly, governments tend to underestimate the projected costs of military equipment. One only needs to look at the recent report by the Auditor General Sheila Fraser, which criticizes the ballooning costs and attendant delays in both the Cyclone and sole-sourced Chinook helicopter acquisitions. Similarly, defence contractors recently

informed the government that it could not build three Joint Support Ships for the amount that DND had budgeted.

There is a significant risk that the project's cost might increase in the coming years. Officials, however, remain optimistic that such cost increases will not affect Canada's eventual purchase. According to Michael Slack, manager for the F-35 project at DND, Canada will be purchasing the fighter based on the cost of each unit as it is manufactured, thereby avoiding spiraling preproduction costs. Yet one should also avoid being too sanguine on the final cost of the aircraft.

First, it remains to be seen whether the F-35 will also be required to undergo expensive modifications to make it suitable to operate in Canada's unique environment. The sole-sourced Chinooks were similarly modified, and the costs ballooned compared to the off-the-shelf model.

Second, the F-35 purchase price might still significantly increase if the total number of jets manufactured is smaller than expected. Of note, Great Britain has already switched to the cheaper F-35c model and reduced its purchase from 138 to 50, and there is no guarantee that the United States will not follow suit. True, many additional countries might

eventually decide to purchase this fighter. But even this cannot be guaranteed.

Third, with little in the way of a maintenance history for the aircraft, there is a possibility that Canada will find the maintenance support costs for the fighter jets to be much higher than the \$7-billion projected—this would either result in higher costs or, more likely, a more limited maintenance program. The sole-sourced C-130J Hercules, one should recall, was only afforded seven years of maintenance support rather than the expected 20 years.

That being said, the F-35 might still very well be the most appropriate fighter jet for the Canadian Forces. For one, Canadian companies will likely enjoy some potentially lucrative economic contracts from participating in a major multinational program. Even more importantly, Canada's defence requirements might actually necessitate the acquisition of the F-35. After all, the Conservatives consistently maintain that the F-35, and only a fifth-generation aircraft like the Joint Strike Fighter, is suitable to meet Canada's military needs.

Clearly, the government prefers to discuss the domestic and continental role for these aircraft, due to the uncontroversial nature of such missions and the growing public concern over the future of the Arctic. Indeed, the Conservatives have pointed to Russian bombers testing Canadian air space and used such incidents—routine as they may be—to justify this procurement. And as supporters of the purchase correctly note, friendly relations with Russia and other countries, apart from our immediate and close allies, cannot be guaranteed over the next few decades.

Does this mean that Canada had little choice other than to purchase this expensive fighter jet? Not necessarily. Other fighters, most notably the Super Hornet, represent a significant improvement over our existing CF-18s. Despite lacking some of the more advanced features of the F-35, such as stealth technology, this 4.5-generation aircraft would be more than sufficient to provide surveillance and control over Canadian air space. Importantly, it also represents both a cheaper and more well-tested aircraft than the F-35—based on how much the US Navy is spending on these aircraft, Canada should expect significant per unit savings, though maintenance costs will likely not be inconsiderate.

True, the Super Hornet would be at a tactical disadvantage when pitted against Russia's forthcoming fifth-generation aircraft, especially the PAK-AF. And the F-35's more sophisticated air-to-air combat and interception capability would prove useful against both Russian fighters and bombers. But this ignores two important points about North American air defence.

First, despite the alarmism that is often generated by Russian nuclear-armed bombers, this threat is only actualized in the event that Russia threatens a significant nuclear attack on North America. And the primary means of dealing with this possibility is not by robust air defence systems, in which the more advanced F-35s would offer definite advantage, but

rather by early detection and warning—this helps to ensure a survivable American nuclear arsenal capable of retaliating, and thereby deterring, such aggression.

Second, while Russia might still violate and infringe upon Canadian airspace, one should not overlook the crucial role played by our superpower ally. Russia would be forced to deal not only with the Canadian air force, but also the much more sizable American fleet. Simply put, it would matter little to the Russians whether Canada was armed with Super Hornets or the F-35. It is also unlikely to matter much to the Americans either. Indeed, US North Command is now advocating for slower and lighter fighters—a telling sign that the Americans themselves are not necessarily convinced on the threat posed by advanced Russian aircraft.

With most of our key allies poised to purchase the Joint Strike Fighter, Canada's capacity to continue participating in aerial combat operations abroad is also clearly at issue. Indeed, critics of the purchase have been quick to highlight this expeditionary role as being the true *raison d'être* for the F-35. In the colourful words of Steven Staples of the Rideau Institute, this aircraft is a "first-strike fighter-bomber" that will be used "in the first wave of aircraft screaming over the beaches to bomb cities and military bases on the first night of war."

There is certainly some truth to this statement. The F-35's stealth technology and advanced weapon systems would prove especially useful for the suppression of an adversary's air defence and to secure air superiority over the battlefield. At the very least, stealth technology will prove useful as a means to maximize the survivability of the aircraft in hostile environments. With the spread of advanced aircraft and air defence systems, the Super Hornet—unlike the F-35—might simply find itself too vulnerable to attack. This does not mean that these jets would be unable to participate. But it might be unwise to place such an aircraft in a hostile combat environment—and the United States, always keen to maximize operational efficiency, may simply not accept such a contribution in the first place or relegate them to a token role in the aftermath of the initial air campaign.

True, Canada has not participated in an air war since the 1999 Kosovo War. And there is certainly a great degree of discretion in whether Canada participates in such operations and the nature of that contribution itself. But it would be wrong-headed to assume that expeditionary operations will only be limited to counter-insurgency missions in undeveloped fragile states. Canada might very well find itself participating in combat operations against a more advanced state with sophisticated air defence and anti-access capabilities. And without the F-35 to contribute, Canada might in turn find itself sending significant naval or ground forces to compensate.

The decision to acquire the F-35 seems unnecessary from a domestic and continental perspective. But with its stealth

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After Bin Laden

by Barak Mendelsohn

Osama bin Laden's death is a devastating blow to al-Qaeda, but it is not the end of *jihadi* terrorism. While it is demoralizing for the whole *jihadi* camp, it will not eliminate the motivation to attack the U.S. and is likely to trigger revenge attacks. But from a strategic point of view the death of bin Laden could mark a critical junction in the process of demilitarizing the war on terrorism and the beginning of the end for U.S. presence in Afghanistan.

Al-Qaeda will survive bin Laden's death. Al-Qaeda and jihadism will continue not merely because bin Laden's legacy will keep feeding *jihadi* terrorism, but because the *jihadis'* radical interpretation of Islam still resonates with some Muslims. But bin Laden's importance for al-Qaeda and the adverse effects his death will have on the group, cannot be overstated. His unique centrality is unlikely to be replicated by any of his potential successors. Although his operational role greatly diminished since 9/11, bin Laden was the embodiment of al-Qaeda. He devised the group's strategy, and was a strong symbol of resistance. Beyond successful tactical measures to preserve the group and American strategic missteps, it was the power of bin Laden's charisma that allowed al-Qaeda to survive tremendous losses after 9/11 and become a brand name that attracted individuals and other *jihadi* groups.

Paradoxically, bin Laden was simultaneously the power behind al-Qaeda's ascendance and a major cause for its decline. During the 1990s, at a time when *jihadis'* confrontations with the 'close enemy' regimes in Egypt and Algeria failed, bin Laden offered an alternative course of action. By attacking the U.S., he triggered a momentous set of events, and positioned himself and al-Qaeda at the forefront of the *jihadi* camp. But bin Laden was also an inept strategist. His strategy was based on extremely unrealistic expectations that the U.S. will quickly crumble, and that the Muslim masses will hurry to join al-Qaeda's ranks. Bin Laden's fantasy plan, which promised to solve the problems of the *umma*, cost the lives of many innocent people as he encouraged numerous young Muslims to engage in an orgy of violence, often massacring co-religionists in the name of God. But bin Laden's strategy did not bring the anticipated fruits and failed to recreate a Caliphate or bring down even one single Arab ruler. Instead, in his last days alive, the Muslim youth bin Laden was counting on were demonstrating throughout the Middle East, calling for democratic reforms which he saw as signs of infidelity. His silence since the Arab Spring started was deafening.

Bin Laden's leadership style magnified al-Qaeda problems. Bin Laden was a benign authoritarian: while maintaining

an above-the-fray image, and a holy-like demeanor, bin Laden mastered the skills to quietly suppress internal opposition. He kept the organization relatively cohesive even as its operation became increasingly diffused in response to the heavy international pressure. After 9/11 bin Laden even succeeded in bringing critics such as abu Musab al-Suri to close ranks behind him. However, his strategy pushed al-Qaeda over the brink and its grave mistakes (primarily the killing of Muslim civilians) slowly fractured bin Laden's image. People who once were close associates started criticizing him publicly.

And yet bin Laden maintained his unique position inside the *jihadi* universe and far beyond. Others may prove to be better strategists but no individual, including his lieutenant al-Zawahiri, possesses a similar aura of invincibility and appeal among Muslims. Whoever succeeds bin Laden will find that for his sympathizers throughout the world bin Laden the leader can only be replaced by bin Laden the myth and the symbol. Terrorism will endure but strategic objectives will become even harder to achieve.

His successor will have to struggle with difficult problems bin Laden managed to postpone due to his stature and allure. Prominent among these issues will be how to maintain al-Qaeda's anti-American and anti-Western narrative. Revenge may prove a useful way to motivate al-Qaeda members and sympathizers to continue bin Laden's plans and attack the U.S. and its allies, but without a compelling strategic vision that will tie such attacks to strategic change, the appeal of such a campaign will be short-lived.

The need to preserve the broader al-Qaeda network will confound the challenges of bin Laden's replacement. Franchises that swore allegiance to bin Laden himself may not accept the authority of his successor. Even if they chose to remain part of al-Qaeda outwardly, the inclination of most franchises to focus on local conflicts is likely to increase, though Western targets in the franchises' theatre of responsibility will probably retain their preferred status. At the same time, the leadership of al-Qaeda's branch in the Arabian Peninsula, which in the past couple of years, eclipsed the central organization, may even present a direct challenge to the leadership in South Asia in the post-bin Laden era. Combining the operational opportunity due to the unrest in Yemen, presence near the birthplace of Islam, and an intimate relationship with the dead leader, the leaders of this branch could vie for leadership of the *jihadi* movement.

As events in the Middle East highlight the weakness of its 'far enemy' strategy, al-Qaeda will be pressed to produce a much more compelling reaction than its spokesmen, al-Zawahiri, abu Yahya al-Libi and Atiyatallah, have offered so far. The new al-Qaeda leader will not have the privileges bin Laden enjoyed and he will face much more pointed

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critique if he does not provide a strategic direction for the group. With regimes collapsing throughout the Middle East, even the greatest supporters of al-Qaeda will feel inclined to focus on events back home and abandon global *jihad*. Examples from Libya and Egypt suggest that some *jihadis* may even abandon local jihads altogether and seek reintegration into their societies. As a result, al-Qaeda may end up largely irrelevant to setting the future of the Middle East. Moreover, it could end up increasingly dependent on Western recruits—many of whom are ignorant about Islam—for continuing its anti-Western agenda. Such developments, albeit still gravely threatening to Western countries, will push al-Qaeda further away from its Islamic roots and from the areas it is mostly concerned with, the states of the Middle East.

While the strategic threat from al-Qaeda will probably decline, the motivation for revenge attacks by groups and individuals in the West will be at its highest level. Lone terrorists and “homegrown” cells in particular will seek to avenge bin Laden, and they will be even less discriminate in their killings. In addition, al-Qaeda affiliates throughout the Middle East will want to demonstrate their sympathy by

carrying out attacks in memory of bin Laden. Pakistan will probably suffer (as always) the greatest carnage as multiple local *jihadi* groups will seek to take revenge against the Pakistani state and its citizens.

Over the long run, the prospects of ending U.S. intervention in Afghanistan have increased considerably. Bin Laden’s death provides the U.S. an opportunity to declare victory and start withdrawing from the country. The Afghan Taliban, on the other hand, will find that bin Laden’s death released them from a great liability and could make it easier for them to sever their links with al-Qaeda; after all the Taliban have much greater interest in regaining control over Afghanistan than waging a global *jihad*. If both sides will take advantage of the opportunity to wind down the war in Afghanistan, bin Laden’s death will mark a stepping stone in demilitarizing the global war on terrorism and toward dealing with terrorism through intelligence and police work. ♣

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Why you can’t kill Gadhafi, too

by Eric Morse

Osama bin Laden’s killing raises some interesting and disturbing questions about the murky world of international relations at the very top. One is: “if Osama, why not Moamar Gadhafi?” It leads in an odd vector to the second one: “What was the President of the United States doing in that room watching that assassination?”

Oversimplifying wildly, there are no international laws specifically touching on high-level killings as acts of state. Laws in various nations, including the US, forbid this in various ways (in the US case, the law was passed after the CIA had planned to kill Cuban leader Fidel Castro and the fact became public).

If a political leader manages to offend international opinion sufficiently by ordering the killing of another head of state (or government), then he would most likely be indicted by the International Criminal Court under one or another of the conventions respecting crimes against humanity or the plotting of aggressive warfare. But in practice there is just a very pragmatic and universal understanding that heads of government do not take out contracts on heads of government.

There is slippage, usually involving ‘rogue states’. In 1983 North Korea killed several South Korean government ministers in an attempt on the South Korean President’s life in Rangoon, Burma. But generally there is an understanding that for states to kill each others’ political leadership is unac-

ceptable, for the very obvious reason that (as the Duke of Wellington famously said about poison gas) ‘two can play at that game.’ There may be constant rumours of plots by assorted potentates to do away with one another, but the real event is very rare, and never acknowledged or directly traceable.

That’s the major reason why we are unlikely to see a similar boots-on-the-ground, direct-strike operation directed at Gadhafi in Libya. As vile as he may be, he is a sitting head of state engaged in a civil war. The UN mandate is not about regime change, as various participants have stated repeatedly. The problem of course is that it *is* about regime change, but that is not admissible under the terms of UNSC Declaration 1973, and so if approached at all, it must be approached judiciously and indirectly.

Gadhafi might flee and be captured (as Saddam Hussein was) after having been deposed. He might be killed by ‘collateral damage’ in a strike on a military installation, which may be what is happening in Tripoli as this goes to press, or by rebels. but direct personal attack is out of bounds. Appearances must be preserved.

Not only is it out of bounds, it is far more difficult to execute than one might think. A head of state with assets is a ‘hard target’ with defensive positions, and evasive and deceptive measures at his disposition.

Bin Laden is another matter. He held no office and led no state. He was what an earlier age freely called ‘outlaw’ and has been dealt with in that fashion, summarily and directly, and in line with the long-announced intentions of a sovereign

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state. It is grisly, it is a throwback to more openly brutal ages and it may be ominous of a brutal age to come, but nonetheless it falls in a different category from a direct attack on the President of Libya.

Which still leaves us with question two—what was Obama doing in that room, watching? Yes, this was a cathartic, historic moment for the US, its people and a great many other people. There may be a great political need for vengeance to be seen to be meted out. Still, a President has been seen to have sat in a room where a killing was being directed—‘in real time’ as media have said.

That is a disturbing loss of perspective on someone’s part—perhaps society’s, since we seem to have lost the ability to distinguish virtual from real in the present day. That was not a computer game the President was watching, it was an execution carried out at his order. Only the most callous of the Caesars placed themselves that close to the moment of death.

More practically, no matter what protocol for Presidential involvement was agreed on beforehand there would always be the terrible temptation to meddle from 10,000 miles away. That is a recipe for disaster. What if the operation had blown up in the President’s face? No Osama? Women and children present and dead in windrows? US troops killing each other in error?

Even with the available technology, the ‘fog of war’ (being polite about it) produced seriously shifting versions of what

happened on the ground. I once had a Russian associate who had participated in a similar hit—minus the high technology—on Afghan Communist Leader Hafizullah Amin in 1979 as a member of the Soviet *Komando Alfa* spec-ops squad. He described the confusion vividly (and mentioned that they had killed their own commander in the fracas). There is no current technology that can sort out that kind of action conclusively.

For a President, being out of the room is not so much ‘plausible deniability’, which these days isn’t worth much, and there’s not much doubt where the buck stops on this one anyway. But being *in the room at the time* is accepting direct responsibility for anything that happens. Obama was very lucky in that moment. We (and maybe he) will never know whether he would have fallen on his sword if things had gone badly wrong—and what exactly would the personal price of disaster have been? But, and this is the might-have-been created by the crash of the helicopter that was to have removed bin Laden’s family, the heirs of bin Laden’s flesh, and potentially his spiritual legacy, are alive and (so far) outside Obama’s control—he may yet live to regret how intimately close to the moment of execution he really was. ♣

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How Canada's Armed Forces Should be Used

by J. L. Granatstein

Now that the election is over, we can do some sober analysis, and one area that deserves parsing is the Liberal and NDP platform positions on peacekeeping. Both were enthusiastic about serving the United Nations. Neither seemed unduly interested in war-fighting, although the Liberals, whose agreement was essential for the 2008 three-year extension of combat in Afghanistan and for the three-year training commitment there, did seem to concede it as a possibility.

Nonetheless, the now-defeated Liberal leader Michael Ignatieff made some interesting comments in the French-language leaders' debate that deserve to be remembered, if not heeded. The UN Security Council, he maintained, should decide if Canadian troops are to be committed to operations: "The Canadian Army must never be used outside the country without the authorization of the UN."

Ignatieff seemed to have forgotten that China and Russia have vetoes in the Security Council, and neither nation necessarily has Canadian or western interests at heart, to say the least. When he was reminded of this by a journalist, Ignatieff conceded that while "Canada has always believed as a matter of international law... that the use of force in international affairs should be authorized by the Security Council of the United Nations," there were exceptions.

"When you can't get authorization... you'd better have an extremely good case in which you can use force... [as in] Kosovo, where international authorization... was not granted." The 2003 US invasion of Iraq was another case, but one that Ignatieff, who supported the intervention, was careful not to cite, this being an unhappy memory that had to be buried in an election campaign.

The real question, however, is whether Canada and the western nations should put future military action in the hands of the United Nations and the Security Council. Ignatieff had not always been in favour of this.

As he told *Maclean's* in 2003 before he returned to Canada to enter politics, "the UN screwed up in Rwanda, it screwed up in Bosnia—it screws up most of the time. The United Nations is a messy, wasteful, log-rolling operation." So it has been.

Why the switch in attitude about who should authorize the deployment of Canadian troops abroad, a matter of substantial importance? The reason is clear: political expediency. The Liberal party, like the New Democratic Party, is essentially against military operations led by the United States, and it has been ever since the first Gulf War at the beginning of the 1990s. Peacekeeping is good, most of the Grits say, tilting leftward and flashing their anti-American credentials, and war-fighting is always bad, especially when the Yanks are involved. In his televised election town hall, Ignatieff said, "We oughta be out there on the front

lines making sure people don't kill each other. It's a good thing for Canada to do." Ideally, Canada should do only peacekeeping, or so most Liberals and all NDPers believe.

Unfortunately, this position almost completely ignores reality.

Peacekeeping nowadays is not a matter of slapping a blue beret on a Canadian soldier and patrolling a ceasefire line to stop people from killing each other. Instead, today's peace interventions seem to involve killing and being killed, as in Congo and Darfur. In fact, many peacekeeping operations in the past have been far from benign - Canadian soldiers in their three decades of peacekeeping service on Cyprus, for example, lost 28 men killed and had to fight off a Turkish invasion force in 1974.

Nonetheless, Ignatieff was half right: Canada should do United Nations peacekeeping when it can. The tests for participation are clear, something Ignatieff surely knew, even if he did not feel he could say so during a campaign. There must be a clear UN mandate, something that has not always been the case in the past half-century. There must be the agreement of the warring parties on a UN force and a desire for a peace settlement. There must be a definite exit date—no more endless missions, as in Cyprus. And the Canadian Forces must be able to do the job with the available personnel and the right equipment. In addition, Canada should pick and choose its missions carefully. There is no value in putting our soldiers into the jungles of Congo, for example, not least because white troops are unwelcome to the factions at war there.

Above all, each and every deployment of Canadian troops, whether for the UN or for a coalition operation, must serve Canada's national interests. That is the *sine qua non*, and to ensure this requirement is met, Parliament should be asked to vote to support every substantial deployment overseas. Without a parliamentary mandate, there cannot be long-lasting public support, and it is always important for the people's elected representatives to accept the burden of responsibility for putting the lives of Canadian Forces soldiers at risk.

A few years ago, when he was a conservative liberal living in the US, Michael Ignatieff would most likely have agreed with every word in this column. In the 2011 election, he ran, like his party, from the left and against his better—earlier—judgment. No one can suggest his position on peacekeeping shaped the election result, but his personal and party defeat does suggest that no leader should run against his convictions.

Or, perhaps, that political expediency is not always the best course.

Now that he's a professor again, Ignatieff can contemplate such questions at leisure. ♦

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this trend, many NATO states are actively reducing their military budgets as part of larger austerity measures making long-term military commitment less feasible. Given the lessons learned from NATO's mission in Afghanistan and the American led intervention in Iraq, NATO members are also cognizant of the fact that anticipatory force is not a panacea, but a damage-reducing measure that must be followed up with a commitment to reconstruction and development.

With these considerations in mind, the dimensions of NATO's use of anticipatory force will ultimately depend on how a given threat is perceived by its member states. While there is a general agreement within the Alliance that terrorism, failed and fragile states, and weapons of mass destruction pose some kind of threat to the North Atlantic region, consensus breaks down over the gravity of these threats and, more specifically, whether such threats are national or international in scope. According to Kristen Rafferty, these differences "reflect fundamental, long-standing disagreements over NATO's strategic doctrine, and more particularly, beliefs concerning the definition of vital interests, and the most appropriate strategies and instruments for preserving those interests."¹⁶

NATO members agree that the Alliance should be prepared to use anticipatory force under *certain* circumstances. However, what those circumstances are and how this strategy would be implemented remains a subject of speculation. Despite NATO's implicit support for anticipatory action in the face of contemporary security challenges and an expanded legal basis for operations of this nature, it is unclear as to how the Alliance will utilize this method moving forward. The issue of anticipatory force ought to be the subject of further discussion within the Alliance however, as this directly relates

to NATO's expanded ambit of operations, future expeditionary engagements, and transition towards a more proactive military alliance. For the time being, the implications of the trends identified in this analysis are unclear and anticipatory force remains a curious theme in NATO's evolving strategic doctrine. ♣

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Notes

- 1 Gary L. Guertner, "European View of Preemption in US National Security Strategy," *Parameter*, (Summer, 2007): 32.
- 2 George W. Bush, "The National Security Strategy of the United States of America," (Washington: the White House, March 2006), 23.
- 3 Karl-Heinz Kamp, "The New Political Reality of Pre-emptive Defence," *Canadian Military Journal*, (Summer, 2005): 76-78.
- 4 Tomas Valasek, "New Threats, New Rules: Revising the Law of War," *World Policy Journal*, Vol. 20, No. 1, (Spring 2003): 17-18.
- 5 The North Atlantic Treaty Association, "Military Concept 471: NATO's Military Concept for Defence against Terrorism," (Brussels: North Atlantic Council, November 21, 2002), <http://www.nato.int/ims/docu/terrorism.htm>
- 6 *Ibid.*
- 7 European Union, "A Secure Europe in a Better World," *European Security Strategy*, (Brussels, December 12, 2003), 6.
- 8 Valasek, "New Threats, New Rules," 22.
- 9 The North Atlantic Treaty Organization, "Active Engagement, Modern Defence," *Strategic Concept for the defence and Security of the Members of the North Atlantic Treaty Organization*, (Brussels: North Atlantic Council, November 2010), Available at, http://www.nato.int/cps/en/natolive/official_texts_68580.htm
- 10 *Ibid.*
- 11 David Rodin, *War and Self-Defence*, (Oxford: Oxford University Press, 2002), 113-114.
- 12 Bellamy, *Just War: From Cicero to Iraq*, 168
- 13 *Ibid.* 166.
- 14 Ruchi Anand, *Self-Defense in International Relations*, Palgrave Macmillan, (Great Britain, 2009): 107.
- 15 Kamp, "The New Political Reality," 77-78.
- 16 Kristen Rafferty, "From Missile Defence to Preemption," *Comparative Strategy*, Vol. 23, No. 2, (2004): 173-176.

technology and advanced weapon/network systems, these fighters are more appropriate if Canada is to continue to fully participate in air combat operations abroad. In that sense, it certainly fits with Canada's long-standing policy—spelled out in various defence white papers and statements—to maintain a "multi-purpose combat capable force" able to fight "alongside the best, against the best."

Yet one should also not be complacent with such important matters. Indeed, it might be prudent for the government to more fully re-assess the role of the air force and the need to contribute its air force for high-intensity combat missions. The F-35, while having the requisite capabilities for such operations, might simply be too expensive a choice for the Canadian military. And if this means that Canada might no longer be capable of participating in a coalition air war, perhaps it is now finally time to seriously look at that option.

A more specialized role for our air force, focused more on domestic and continental tasks with the acquisition of the cheaper Super Hornet, might appear to be a risky proposition. But given the need for fiscal restraint and soaring costs of advanced weapon platforms, the status quo is not without danger. Simply put, the decision to acquire the F-35s can easily result in significant opportunity costs. For example, the navy could find little funds available in the capital budget when its major surface combatants are in need of replacement.

Canadian governments generally prefer to avoid making hard choices on defence. However, with the recent F-35 controversy and major naval procurement projects on the horizon, it is perhaps finally time for the government to begin to take a hard look at and make some difficult decisions on the future of Canadian defence policy, force structure and procurement priorities. ♣

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