



2 International intelligence cooperation in practice

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[C]ollaborative intelligence is not actually as self-evident or as straightforward in practice as might first appear to be the case.

(Warren Tucker, New Zealand Director of Security, 23 May 2007)²

This chapter seeks to analyse recent developments in the practice of international intelligence cooperation or ‘intelligence liaison’. The acceleration of international cooperation is often claimed to be the most important change in the area of intelligence and security activity over the last ten years. First of all this chapter seeks to offer a broad explanation of this development, arguing that this increase in international intelligence cooperation is driven not just by specific events such as 9/11, but also by the broader phenomenon of globalisation. Second, it is further suggested that the changing nature of security threats over more than two decades has demanded wider patterns of sharing that do not sit comfortably with traditional intelligence practice, which counsels caution when sharing sensitive data. Third, particular developments in the field of intelligence collaboration are discussed, focusing on the last decade and drawing examples mostly from Europe and North America. Finally, some brief thoughts are offered on the challenges to oversight and international intelligence cooperation. While the main subject of this chapter is cooperation between foreign intelligence organisations, the globalised nature of current security issues, and especially the porous nature of domestic/foreign divide, means that we might also have to speak of the international world of cooperation between domestic security organisations. Indeed, intelligence cooperation is no longer dominated by civilian foreign intelligence services, it also includes the police, the military and privatised entities. It is an increasingly complex and crowded world.

Globalisation as the driver of hesitant intelligence cooperation

It is frequently observed that intelligence has never been more important in world politics than it is currently at the opening of the twenty-first

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1 century.³ The idea that effective intelligence is central to action against
2 terrorism, organised crime, weapons proliferation and a range of associ-
3 ated sub-state threats commands broad consensus. Accordingly, over the
4 last five years there has been a flurry of writing about current intelligence
5 activities. Yet recent academic literature on this subject has focused on
6 thick description. Almost without exception, scholars working in Intelli-
7 gence Studies have focused on specific episodes including 9/11, the inva-
8 sion of Afghanistan, estimates of Iraqi weapons of mass destruction
9 (WMD), together with human rights related issues such as rendition and
10 torture. Insofar as any analytical lens has been employed it is the problem-
11 atic notion of 'new terrorism'. Few intelligence specialists have taken an
12 interest in wider notions of international relations – including globalisa-
13 tion – while International Relations scholars have repaid them with the
14 same coin. There is an alarming disconnect here and the result has been
15 that we have been slow to recognise some important general changes in
16 the realm of intelligence.⁴

17 We live primarily in the era framed by globalisation – indeed by global
18 uncertainty – and since the end of the Cold War the complex debate over
19 the nature of the changes associated with globalisation, their texture and
20 meaning has constituted the dominant theme in international relations.
21 Some of the most important and influential writings that have shaped the
22 public understanding of international affairs over the last five years
23 have focused not on terrorism, but on the impact of accelerating inter-
24 connectivity.⁵ Moreover, the most intractable issues confronting us over
25 the decade are problems associated with globalisation that include finan-
26 cial instability, third world debt, climate change, pandemics, together
27 with a range of networked threats from illegitimate actors. Reshaping
28 intelligence structures to address these separate but related threats
29 presents a challenge on a far greater scale than that of counter-terrorism.
30 One of the most problematic aspects of this reshaping has been interna-
31 tional intelligence cooperation or as it is often called by practitioners,
32 'intelligence liaison'.⁶

33 The impact of globalisation upon intelligence is rendered problematic
34 by divergent conceptions of its nature and the contradictory expectations
35 that have resulted. Perhaps the most profound consequences flowed from
36 what we might call 'the globalisation concepts of 1989'. The end of the
37 Cold War ushered in political transformations that were genuinely global
38 in their range. We witnessed parallel processes of democratic reform in
39 Europe, Latin America, Africa and Asia. For intelligence this led to higher
40 expectations of ethical behaviour, together with enhanced transparency
41 and accountability. Many European services were given a legal identity and
42 the language of the European Convention on Human Rights (ECHR)
43 began to appear in some of this legislation.⁷ New parliamentary account-
44 ability committees bloomed in both Eastern and Western Europe. Similar
45 developments could be observed as far afield as Argentina, South Africa





and South Korea. Presumptions of a democratic peace, which also signalled downsizing, had perhaps prompted the conclusion that intelligence services were now unimportant enough to be regulated. Yet while the drivers of change were global and regional, the new audit systems were irredeemably national and so unlikely to cope with future patterns of transnational intelligence activity. This already pointed the way to future trouble for bodies concerned with accountability.⁸

Instead of ‘perpetual peace’, globalisation delivered something else. Moises Naim, editor of *Foreign Policy*, has reminded us of the unpleasant things that had emerged as the result of an increasingly porous international system, characterising these as the ‘Five wars of globalization that we are losing’. He has argued that we are confronted with an unprecedented wave of illicit activity that is not just about organised crime, but also about the parallel effects of money laundering, corruption, weapons proliferation and the rise of kleptocratic regimes. He suggests that while international crime is nothing new, we are now seeing novel adaptive and undifferentiated structures that are highly decentralised, horizontal and fluid. They specialise in cross-border movement and are also very proficient in the use of modern technologies.⁹ These problems have been compounded by the relative weakness of global governance. Even during the late 1990s, the limitations of global governance had visibly confounded its academic enthusiasts. Regional and international organisations, most obviously the European Union, have tried and failed to create effective agencies that might operate at a transnational level.¹⁰

Precisely because globalisation is strong while global governance is weak, the response to these problems has been national agencies on steroids. Even before 9/11, governments had recognised that many of the global miscreants identified by Naim depend upon clandestinity for their effectiveness and are highly elusive. They gradually concluded that counter-measures must be intelligence led. Indeed, with the decline of boundaries and borders, there was little choice but to move towards more intelligence-led activity. Law enforcement organisations have increasingly adopted intelligence methodologies, while the intelligence services themselves have moved beyond mere ‘finding’ towards more ‘fixing’ and ‘enforcing’. In short, states opted for a Westphalian solution to a globalisation problem and quietly asked their agencies to shift their priorities from ideas to action. It is hardly surprising that, having been asked to engage with Naim’s ‘five wars of globalization’, intelligence agencies should have become more kinetic and more controversial.

The events of 9/11 have done more than accelerate an existing process in which states have been forced to revive their intelligence services and to redesignate them as the ‘toilet cleaners of globalisation’. The agencies themselves enjoy a more visceral – if not over-sophisticated – understanding of the difficult nature of globalised targets. Since 2001, intelligence agencies been forced to follow their elusive opponents down the transnational trail.

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1 Accordingly, they have cooperated with foreign partners in operations, on
2 training and data sharing on an unprecedented scale (something which
3 they instinctively abhor). They have also privatised at a remarkable rate,
4 hiring many of the long-term professionals who were ‘let go’ in the downsizing
5 of the 1990s. States have not tracked the speed with which their own
6 agencies have globalised and have only now begun to realise that much of
7 this activity now stands outside the national frameworks of accountability
8 created only a decade ago.

9 Accordingly, globalisation, no less than “new terrorism”, helps to
10 explain the four main changes that have occurred within modern intelligence
11 since the end of the Cold War. First, they have become much larger.
12 Second they have become more interventionist – and in some cases more
13 violent. Third, the world of intelligence now involves sizeable private entities
14 that are perhaps its most globalised actors. Fourth, *and most importantly*,
15 intelligence agencies – both domestic and foreign – have been
16 forced to accelerate their cooperation, often with improbable partners.
17 These four changes, which are separate, but also connected, collectively
18 pose severe challenges for those interested in accountability and
19 oversight.¹¹

21 **The real world of intelligence cooperation**

22 Globalisation has created a relatively borderless world in which states move
23 clumsily but wherein their illicit opponents move elegantly. Globalisation
24 – for a while at least – delivered improved levels of trade and increased
25 wealth, but it also offered opportunities for new criminal activity and political
26 violence on an unprecedented scale. The structures of global governance
27 that were supposed to help to police it have not arisen naturally and,
28 insofar as they exist, they have proved to be flimsy. Instead, national
29 governments have placed intelligence in the front line against a range of
30 transnational opponents, but little thought has been given to how they
31 might reorganise and restructure to deal with networked threats that are
32 simultaneously diffuse yet interconnected. The greatest challenge has
33 undoubtedly been cooperation, since this is not a natural instinct for
34 intelligence services. As inquiries into 9/11 have shown, cooperation between
35 the different services even within one country is often poor. Bilateral
36 cooperation between countries and *a fortiori* multilateral cooperation present
37 yet further orders of difficulty.¹²

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39 Bradford Westerfield, in his classic article offering a functional analysis
40 of intelligence liaison, remarked that the literature on intelligence cooperation
41 is thin, compared to its importance. He has suggested that the paucity of
42 literature reflected the fact that cooperation was one of the most secret
43 aspects of intelligence activity. This is certainly true. However,
44 his own functional analysis also points to a further explanation of the
45 impoverished literature. Intelligence services might cooperate across any





of their many functions and at any stage of the intelligence cycle. Intelligence cooperation is therefore highly distributed – in other words it is everywhere and yet nowhere. Intelligence services sometimes have an office of liaison but in practice cooperation has no obvious single home or location. Notwithstanding this, Westerfield offered the first taxonomy of intelligence cooperation, identifying at least six possible forms, which were:

- 1 fully fledged liaison
- 2 intelligence information sharing
- 3 intelligence operations sharing
- 4 intelligence support
- 5 crypto-diplomacy
- 6 the intrinsic risks of liaison.¹³

Westerfield also reminds us that there are two different types of basic distinctions that might be drawn within the ‘world of liaison’. The first is between formal and informal cooperation. He argues that a distinction can be made between informal or ad hoc cooperation on the one hand and ‘fully fledged liaison’, which he defines as official and formal.¹⁴ Intelligence services of any two states, even those with a long tradition of hostility towards to each other, might potentially cooperate on an ad hoc and informal basis. Typically, in the 1990s, officers from the SVR, the Russian intelligence agency, secretly placed nuclear detection equipment inside North Korea that was provided by the CIA to assist in tracking Pyongyang’s nuclear weapons programme. The equipment was installed inside the Russian embassy in the capital. The CIA trained up the officers from the SVR in their operation. The Russians then shared their findings with the Americans.¹⁵ The Americans had conducted more ambitious operations with the Chinese against Soviet strategic programmes in the 1980s. However, where any volume of business is conducted, states tend to prefer a formal relationship that provides a regulatory framework through written agreements. Here intelligence services behave rather like mini-states, concluding treaties and exchanging ‘liaison officers’, who are similar to ambassadors. This in turn ensures that intelligence services are rather conscious of sovereignty and jurisdiction. Typically, such treaties often specify that the parties cannot recruit each other’s citizens as agents without permission or operate on each other’s territory without prior approval.¹⁶

The second distinction is between bilateral and multilateral cooperation. True multilateral intelligence sharing is rare. A good example of this is the fabled UKUSA intelligence treaty of 1948 which supposedly connects a number of states in a powerful multilateral signals intelligence alliance wherein all product is shared. Many common assumptions about UKUSA are in fact untrue. UKUSA is a complex network bound by many agreements, memoranda and letters that coalesced over more than a





1 decade. The majority of these agreements are bilateral (although their
2 overlapping nature sometimes results in a situation that can feel multilat-
3 eral). Sharing inside UKUSA is substantial but by no means complete.¹⁷
4 The same can be said about close intelligence cooperation between
5 Denmark, Norway, Sweden and Finland. Although this is often thought of
6 as a four-power multilateral arrangement, there are in fact no multilateral
7 intelligence treaties.¹⁸

8 The tendency towards 'bilateralism' reminds us of the most important
9 principle of intelligence cooperation. It is often as much about assuring
10 security as sharing intelligence. Much of the value of the intelligence that
11 is exchanged depends upon secure handling. This applies especially to
12 material from sensitive sources such as signals intelligence or well-placed
13 human agents. Within a bilateral relationship it is much easier to maintain
14 control over 'end users'. Accordingly, within the so-called 'intelligence
15 treaties' that regulate liaison relationships, much of the content is in fact
16 about communications security, physical security and personnel security.
17 This is often down to minute details about the way in which intelligence
18 will be circulated and the kinds of security compartmented information
19 facilities in which sensitive material may be stored. Speaking in 2007,
20 Warren Tucker, the Director of the New Zealand Security Intelligence
21 Service put this very well:

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23 Co-operative Intelligence. It seems intuitively obvious that it ought to
24 be a 'good thing' to co-operate in the collection, analysis, and dissemi-
25 nation of intelligence ... But intelligence by its very nature is secret. It
26 is collected covertly from those who do not wish us – the authorities –
27 to know of their intentions or capabilities. This applies whether the
28 subject of the intelligence collection activity is an individual or small
29 group of individuals (as is the case with the terrorist cell), or whether
30 it is the intentions or attitude of a foreign government. So, given the
31 inherently secretive character of secret intelligence, there is immedi-
32 ately a tension between the need to maintain the secret, on the one
33 hand, and sharing the secret – or operating in a more open and col-
34 laborative manner – on the other.¹⁹

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36 Such security anxieties have consequences for how we might model intelli-
37 gence cooperation. As Thorsten Wetzling has thoughtfully explained, eco-
38 nomic models of exchange borrowed from International Political
39 Economy are sometimes helpful here. If we see intelligence as simply a
40 specialist form of information that enhances the possibility of effective
41 action, then the tendency is to think about 'pooling' and sharing to create
42 'public goods'. Moreover, multilateralism appears to make sense in terms
43 of efficiency, as well as conveying tones of liberal institutionalism. However
44 if we think of intelligence in terms of 'secrets' then the general pooling
45 of information amongst several parties is harder. From this perspective,





intelligence can look more like heavily protected ‘club goods’ or even ‘private goods’.²⁰ Indeed, one could take this further and argue that the system for the exchange of highly classified intelligence tends to look rather like the politics of a commodity producer cartel such as OPEC. Indeed, oil is not a bad analogy here since the product is refined, blended, traded within a controlled market and then supplied to customers. Complete pooling is unlikely and the agreements that are made tend to establish guidelines to protect the value of the product. Moreover, the political texture is often realist and relations between the members of UKUSA, just like OPEC, can at times be rather raw.²¹

Since 2001, with the growth of non-state actors as threats one might hope – even expect – that the liberal institutionalist outlook might be on the rise, with a sense that it is now all states together against the perils of global disorder. Where intelligence alliances are long established, the partners might well be viewed less as exponents of realism and more as the smooth and experienced exemplars of liberal institutionalism. After all, intelligence agencies are naturally inclined to accept that values, ideas and knowledge can sway events, and they have also been required to mediate national interests using cooperation and trust inculcated through a vast institutionalised network of information exchange. This complex web of unseen agreements and networks arguably raises expectations about cooperation and regulates some rather awkward practices by radiating established norms and conventions. Admittedly, liberal institutions often operate indirectly, and therefore somewhat imperfectly. However, we might be justified in expecting that the world of established intelligence alliances constitutes a place where ideas and knowledge have real power and where cooperative exchange has always been viewed as being of common benefit.²²

However, in reality, globalisation seems to have heightened sensitivities over jurisdiction, since it has compelled both foreign and domestic agencies to work alongside each other in new combinations. Having chased their transnational opponents down the rabbit hole of globalisation they have now discovered that their ‘jurisdiction’ is nothing short of the whole world. This, in turn, creates friction. Typically, American intelligence and security agencies recognise that they not only need to work with Europe, they also need to work inside Europe. Such efforts are not always conducted with the approval of the host authorities. In 2005, the CIA Chief of Station in The Hague was expelled for mounting an unauthorised surveillance operation against an individual suspected of being involved in proliferation. CIA operatives were caught because they were themselves surveilled by Dutch intelligence officers who were busy watching the same target group.²³ Similar incidents have dogged the relationship between the CIA, the FBI and the German BND in the last few years.²⁴

Certainly an overtly realist – even opportunist – approach dominated the policy of the German BND on cooperation with the Americans during

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1 the war in Iraq. During the invasion of 2003, some of their field operatives
2 in Baghdad continued to feed intelligence into America's CENTCOM HQ
3 in Qatar via a German liaison officer attached to the headquarters there.
4 In a classified report to the Bundestag, the BND explained that despite
5 their country's vocal opposition to the war in Iraq, German officials felt a
6 continued need to exchange intelligence on Iraq with the United States.
7 The report notes that with the transatlantic political consensus diminish-
8 ing, 'the exchange of information was becoming a quid-pro-quo arrange-
9 ment'. In the wider context of their relationship with the CIA and DIA the
10 Germans felt that their reports from Baghdad 'could be used as extremely
11 valuable barter material'. This example reminds us that convergent policy
12 objectives – or indeed ideals – are not a prerequisite for intelligence
13 sharing. While the Bundestag clearly felt that this was an instance of
14 intelligence cooperation circumventing democratic control, we cannot
15 rule out the possibility that permission was sought from the German
16 executive.²⁵

17 The most important change in the practice of intelligence since 1989
18 has been the exponential increase in complex intelligence cooperation.
19 However there is no single paradigm here. Western intelligence services
20 must now work more closely with secret services in some of the more back-
21 ward countries of the global south that often enjoy a very different set of
22 norms. Many activities are being franchised out to private companies and
23 freelance investigative services. Some have argued that these structures
24 remain hopelessly mired in a Cold War architecture that resists the effect-
25 ive sharing of information. Others argue that we are seeing the emergence
26 of truly globalised intelligence services with common standards for investi-
27 gation and training. In reality, the nature of these developments is far
28 from being well understood and we lack sophisticated models that might
29 elucidate things further.²⁶

31 What's new?

32 Intelligence cooperation is often viewed in reductionist terms as a mere
33 exchange of data. In reality this is only one of three main forms of cooper-
34 ation. We must also take account of shared training and joint field opera-
35 tions.²⁷ So far it has been suggested that intelligence services do not like
36 ubiquitous data sharing, which is why intelligence alliances that are per-
37 ceived as comprehensive multilateral systems of exchange are not always
38 quite what they seem to be. It also explains why suggested plans for multi-
39 lateral pooling on a regional level, typically within the EU, are often
40 treated with scepticism by practitioners. Yet at the same time, the 'new ter-
41 rorism' and more broadly a range of global pathologies have forced hesi-
42 tant intelligence services further and faster down the road towards greater
43 cooperation. After all, public ignominy surely awaits those officials who –
44 in the wake of an attack – prove to have had actionable intelligence in
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their possession that they have not shared. What are the substantive changes that have resulted? At least six main areas of change in the field of intelligence cooperation might be identified.

Fusion centres

Expanded intelligence cooperation between states is partly a function of new types of cooperation *within* states. Traditionally, anxieties about security have not only inhibited international cooperation, they have also obstructed ‘internal liaison’ between the various services of single countries. When examining the background to 9/11, the US Joint Congressional Inquiry soon identified that poor exchange between the CIA, FBI and NSA contributed to the lack of warning. More generally, the so-called ‘new terrorism’ of the last decade, which has gained momentum from globalisation and deregulation by states, presents a more fluid target than previous manifestations of terrorism. This in turn challenged the traditional configuration of Western intelligence agencies that, almost without exception, reflect the divide between domestic and foreign. Although most states have central machines that work across this divide, such as the UK’s Joint Intelligence Committee, these are often cumbersome and in any case tended to focus on more strategic issues.

Accordingly, since 9/11, many countries have responded by creating fusion centres that prioritise operational intelligence from all sources on the functional subject of terrorism. The idea is to ensure that these centres engage, not only with the traditional intelligence and security structures, but all aspects of government and in some cases private partners, such as airlines and banks. Washington first developed a Terrorist Threat Integration Center, which later was replaced by the National Counterterrorism Center. The Canadians have an Integrated Threat Assessment Centre. Similar organisations have sprouted across Europe. In the UK we have seen the creation of the Joint Terrorism Analysis Centre, while Spain has created the Centro Nacional de Coordinacion Antiterrorista. The phenomenon is not merely transatlantic. The Australians have created a National Threat Assessment Centre, while New Zealand boasts a Combined Threat Assessment Group. Ernst Uhrlau, the current head of the German foreign intelligence service (BND) has praised the German fusion centre established in 2004. This is the Joint Counterterrorism Center (GTAZ) situated in Berlin’s Treptow district. GTAZ allows good cooperation and, more importantly, speedy communications across some thirty-six government agencies at the federal and state level. The creation of these centres ensures that all these countries are generating a new kind of operational intelligence on terrorism that is often time critical and which is held in one place, permitting relatively easy exchange. If there are any nodes in the rather distributed network of intelligence exchange across Europe and North America then they are probably here.²⁸

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1 These national fusion centres enjoy strong transatlantic links and repre-
2 sent a qualitative improvement. In the past, the majority of intelligence
3 sharing between the United States and Europe was undertaken by the col-
4 lection agencies rather than by the analysts. Sharing between the national
5 fusion centres has seen the exchange of a new kind of operational mater-
6 ial that is halfway between abstracted analysis and raw data. Typically, it
7 might be lessons learned about new terrorist techniques following a novel
8 attack. It has also allowed the sharing of data that has been gathered from
9 elements of government that are not always thought of as being security
10 providers. A diverse range of government departments with responsibil-
11 ities for infrastructure, transport and resilience are competent parts of
12 these fusion centres. These structures display a commendable focus on
13 resilience and have enhanced transatlantic connectivity at all levels.²⁹

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16 *The gradual rise of multilateral cooperation*

17 Across the world, we have seen the gradual rise of multilateral cooperation
18 between intelligence agencies, but not ubiquitous multilateral sharing.³⁰
19 In Europe, the possibility of creating strong federal intelligence structures
20 was discussed following the Madrid bombings in 2004, but dismissed.
21 Countries with more capable intelligence services had long resisted the
22 idea, partly out of concern that it might erode their own bilateral relations
23 with the United States and partly out of concerns over security. The sigint
24 services were the most adamant since most of the product they received
25 from Washington was 'non-third party'. Meanwhile, senior EU officials
26 now recognised that an expanded EU responsibility in this area would
27 involve them in considerable political risk, partly because of the increas-
28 ingly vigorous nature of some field operations. Accordingly, while the EU
29 boasts an analytical Situation Centre to support decision making, this is in
30 fact fed mostly by national agencies. The flow of intelligence to the EU's
31 Situation Centre (SitCen) that supports broad counter-terrorism policy
32 has been improved, but there is no serious counter-terrorism or intelli-
33 gence capability at the regional level. Previously, SitCen was receiving
34 much of its intelligence from European foreign services, but since 2005 it
35 has also received more intelligence from internal security services.³¹

36 The efforts of the EU to designate a counter-terror role for Europol
37 have been unsuccessful. In November 2001, Europol announced the crea-
38 tion of a Counter-Terrorism Task Force. The expressed intention was to
39 collect relevant intelligence, conduct analysis, formulate threat assessment
40 and render assistance to national police forces. However, this proved to a
41 hopelessly grandiose list of objectives for a small organisation. After expe-
42 riencing difficulties engaging with the secretive national security services,
43 the Counter-Terrorism Task Force was quietly absorbed into Europol's
44 Serious Crime Department in 2003. Following the terrorist bombings in
45 Madrid in 2004, Javier Solana insisted it be re-established as a separate





entity. Although there are now some thirty staff assigned to Europol's Counter-Terrorism Task Force, it remains something of a fifth wheel, since it mostly engages on cases when assistance is requested by a national force.³² In 2005, Gijs de Vries, the EU Counter-terrorism Co-ordinator, made similar noises about the importance of Europol.³³ Yet it is hard to avoid the conclusion that Europol's counter-terrorism effort is mostly symbolic.³⁴

Instead, after the bombings of 2004 and 2005, the leading European intelligence and security services resolved to accelerate the momentum of pre-existing cross-European organisations that provide a framework for cooperation and also link to the United States. Four substantial multilateral mechanisms exist and are of growing significance. None of them is a formal element of the EU, but they have synchronised their activities with the EU more closely. The first is the 'Club of Berne', a longstanding group that consists of the heads of EU member states' security and intelligence services, together with Norway and Switzerland. This meets on a regular basis to discuss intelligence and security matters of all kinds. After 9/11, the Club of Berne created a second body, called the Counter Terrorist Group (CTG). This is a functional organisation with similar membership (with the Americans also enjoying observer status). Since September 2001, CTG has served as a focus for cooperation and has also provided threat assessments to key EU policy makers drawing on national resources. CTG is about broad convergence rather than mere exchange, typically providing a forum for experts to develop practical collaboration on particular projects or devise joint methodologies. This has often taken the form of joint training, allowing European countries with more experience of terrorism to share skills and techniques, together with the standardisation of some procedures. Adam Svendsen has argued persuasively that it is this, the emergence of common conventions and frameworks, perhaps even common standards, rather than intelligence exchange, that allows us to speak of the globalisation of intelligence.³⁵

This was underlined by the response of the Club of Berne to the attacks in Madrid in 2004. On 21 April, the Club of Berne held a meeting in Switzerland to discuss implementation of the objectives of the European Council Declaration on Combatting Terrorism. The meeting concluded that the CTG should act as the interface between the EU and the heads of member states' security and intelligence services on terrorist matters. Since 2004, the CTG has worked increasingly closely with the EU and has played a significant part in implementing the relevant sections of the Declaration. On 1 May 2004, the security and intelligence services of the ten EU accession states joined the CTG as full members. Although CTG emphasises its independence from EU structures, for reasons of convenience, its chairmanship rotates with that of the EU presidency.³⁶ CTG has also held high-level meetings in the wake of the bomb attacks in London in July 2005 and the attempts to attack transatlantic passenger aircraft at London Heathrow in August 2006. The primary purpose of these





1 meetings was to disseminate information about the ‘modus operandi’ of
2 the particular attacks and the background to the plots.³⁷

3 The Special Committee of NATO is the third and the most venerable
4 regional body. This consists of the heads of the security services of the
5 member countries of NATO. This was formed in the early 1950s, but after
6 the end of the Cold War, its role was mostly addressing the difficult secur-
7 ity problems attendant on sharing sensitive military documents amongst
8 NATO’s growing membership. Since NATO’s arrival in Afghanistan in
9 2002, its role has expanded. NATO intelligence and security activity has
10 developed a wider remit and the foreign intelligence services of member
11 states have seen more engagement. The importance of new member states
12 was confirmed by Hungary’s chairmanship of the Special Committee in
13 2008. The NATO Riga summit of November 2006 also saw the creation of
14 a NATO interim information cell consisting of the representatives of the
15 intelligence services of the member states.³⁸ Close cooperation between
16 NATO, SHAPE, EUCOM headquarters and the French high command
17 has also been important in coordinating an energetic programme of
18 special operations in Africa. The lead is now taken by America’s new Africa
19 Command (AFRICOM) based in Stuttgart.³⁹

20 A fourth body is the Middle European Conference, which has led the
21 modernisation of Central and East European services since the 1990s. This
22 reminds us that, across Europe, especially in Central and Eastern Europe,
23 intelligence cooperation means more than mere exchange and can often
24 mean assistance with democratisation and security sector reform. The
25 other trend that is noticeable here is an increasing blurring of fields that
26 once constituted the separate domains of foreign intelligence and security
27 intelligence – or indeed national security concerns and local matters. All
28 of this is redolent of a process of globalisation that mixes up what is inside
29 and what is outside.⁴⁰

30 We might also consider the failed efforts to achieve multilateral intelli-
31 gence cooperation within the context of international missions and inter-
32 national administrations such as those that have taken place in Bosnia and
33 Kosovo. As Cees Wiebes had shown, the troop-contributing nations in the
34 Balkans found it exceedingly difficult to ‘pool’ intelligence on a multilat-
35 eral basis and many national intelligence cells stood alone during this con-
36 flict. This was not helped by tensions between the constituent states and
37 anxiety on the part of the United Nations about the general subject of
38 ‘intelligence’.⁴¹ Notwithstanding this, the attitude of the United Nations to
39 intelligence seems to have changed somewhat since 2001 and member
40 states are now exhorted to exchange intelligence on terrorism.⁴²

41 *The EU and the rise of data-mining*

42 For the EU, the approach has been discretion rather than valour. Instead
43 of seeking to develop a new regional intelligence initiative that has
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operational teeth, it has focused on regulatory and judicial matters. Here, however, intelligence overlaps with information. Information and personal data lends itself much more readily to ‘public goods’ approaches, since while this material impacts upon the privacy of individuals, it is not highly classified. If we are likely to see the rise of the EU as a regional intelligence actor orchestrating multilateral intelligence exchange then it is likely to be in the unseen realm of data-veillance⁴³ and data-mining.⁴⁴ The EU’s current Counter-Terrorism Co-ordinator, Gilles de Kerchove, has repeatedly emphasised that sharing such data is the key to counter-terrorism. In September 2008, the European Parliament was discussing new legislation that would create new offences such as recruiting and training terrorists. As recent research has shown, much of this activity takes place on the internet and so the control and preservation of this sort of data has become a central issue.⁴⁵

Sharing personal data is also controversial because there are intense concerns about the scale of American data-mining. Although the infamous US Total Information Awareness (TIA) programme was cancelled due to congressional alarm, some of TIA’s component elements have been continued as stand-alone items.⁴⁶ Britain, China, France, Germany and Israel all run similar projects. Although no similar pan-European data-mining programme is in existence, since July 2007, airlines operating between EU countries and the United States have been compelled to hand over passenger data from reservations, as well as information obtained by airport-security screeners. Across the EU, internet service providers and telecommunication companies must now keep records for up to two years. This relates to call data but not call content. Remarkably, in April 2007, MPs from the UK Parliament discovered that the Home Secretary, Jacqui Smith, had secretly agreed to allow the Americans access to the UK’s Automatic Number Plate Recognition System. Data-mining increasingly focuses on private internet use. Sophisticated programs automatically assess the content of web pages that people visit and give them a score. The technique here is often called ‘sentiment analysis’. The appetite for data is significant and is obtained not only by country to country transfer but also by purchasing data from private companies.⁴⁷

The problem with data-mining is that it involves the exchange of large amounts of data and information that many would not immediately regard as being ‘intelligence’. It therefore falls outside the scope of either formal or informal intelligence accountability systems. Some have argued that data-mining, nevertheless, represents one of the most pernicious aspects of the ‘war on terror’ because of the emphasis on risk management techniques that seek to make security problems manageable by focusing on marginal groups. Data-mining is connected to intelligence sharing in many ways. Traditionally associated with the domestic realm, the growth in the sharing of this sort of data by states underlines gradual corrosion of boundaries between domestic and foreign. Moreover, data-mining is an

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1 approach that allows states to ‘extract’ intelligence from very large
2 amounts of material that cannot be meaningfully analysed in other ways.
3 The construction of vast data warehouses raises privacy concerns that are
4 not addressed either by intelligence accountability committees or current
5 data-protection guidelines and privacy laws. The problem is redoubled by
6 the fact that the technology is moving fast. Unsurprisingly, these issues
7 have attracted the attention of electronic privacy campaigners, but they
8 are not well understood by politicians or their political constituents.⁴⁸
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10 *Hunting as well as gathering*

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12 In contrast to data-mining, which is largely invisible, one of the more
13 obvious changes is the move towards more joint action and physical inter-
14 vention.⁴⁹ These generalisations are difficult to make in the rather hetero-
15 dox world of intelligence services. However, for most services, the last
16 decade has seen an effort to move beyond the passive gathering of intelli-
17 gence, which largely characterised the Cold War. Confronted with a range
18 of violent transnational actors, most obviously terrorists – but also
19 organised crime – these agencies are increasingly required to undertake
20 fixing, enforcing and disruption. Joint action operations between allies
21 tend to leave a physical trail and have provided strong evidence of close
22 transatlantic cooperation. Indeed, in 2005, the CIA’s Deputy Director of
23 Operations reportedly told a closed committee session on Capitol Hill that
24 ‘virtually every capture or killing of a suspected terrorist outside Iraq since
25 the Sept. 11, 2001, attacks – more than 3,000 in all – was a result of foreign
26 intelligence services’ work alongside the agency’.⁵⁰

27 Across Europe, we have seen the creation of jointly run Counter Ter-
28 rorism Intelligence Centres (CTICs) staffed partly by the CIA. In Europe,
29 two of the most important CTICs have been in Romania and France. In
30 France, the main centre for joint operations is reportedly ‘Alliance Base’
31 located in the 7e arrondissement of Paris. ‘Alliance Base’ is the codename
32 for a joint centre set up in 2002 that undertakes counter-terrorist intelli-
33 gence operations in the field and exemplifies the more activist nature of
34 intelligence services since 9/11. For political and legal reasons it is
35 directed by a senior military officer attached to the DGSE and the working
36 language is French, but it is largely funded by the CIA. Participating coun-
37 tries include Germany, the UK, Canada and Australia. France was chosen
38 for this operational hub because of its tradition of robust action against
39 terrorism and the strong powers of its anti-terrorist magistrates. The
40 dynamic culture of the French intelligence and security services and their
41 unique political frameworks permit a freedom of action that is not possi-
42 ble elsewhere in Europe. Political oversight of the French intelligence and
43 security services is minimal. Meanwhile, by allocating lead officers from
44 different countries, each operation, problems of access to sensitive intelli-
45 gence are overcome and legal obstacles surmounted.⁵¹ Typically, Germany





has strict constitutional laws inhibiting the circulation of material from personal files abroad gathered by German domestic security and police agencies, and indeed even the transfer of material between German police and intelligence agencies.⁵² The example of Alliance Base tells us much about the possibilities and limits of operational cooperation, representing a unit that is closely integrated, yet also kept rather separate from other activities by its partners.

The blurring of domestic and foreign intelligence

Perhaps the most interesting indicator that intelligence and security services are feeling the impact of globalisation is what we might call the international world of domestic security agencies. Hitherto, intelligence cooperation was largely the preserve of foreign intelligence organisations, whether focused on humint or sigint. Especially important were some fifteen or so regional services that were able to offer an excellent picture of their own region of the world. By contrast, liaison with the intelligence services of the majority of the smaller countries was once thought relatively unproductive, other than for reasons of diplomacy and direct political influence.

This has now changed. Even the smallest states are potentially the source of dangerous transnational crime, proliferation or else terrorism. Accessing this realm requires cooperation with internal or domestic security services. Both the United States and Europe have found that the quality of small domestic security services within their own borders is often very good. This reflects an excellent analysis of their own political context often combined with considerable powers.⁵³ The desire to engage with local services in far-flung places is not just about seeking information on elusive people. It is also about joint operations and joint training. Half a century ago the West was busy training the intelligence and security services of countries such as Sri Lanka. Now the process is running in reverse. Countries like Sri Lanka, which has been the unfortunate reception of a great deal of suicide bombing, are proving to be one of a number of key sources of training for security officers the world over.⁵⁴

This process has been enhanced by an increase in liaison officers from domestic security services together with new technical systems. Since 9/11, the FBI has expanded its Legal Attaché offices across Europe. FBI officers in London currently have twenty to thirty meetings with UK intelligence and security officials each week. In 2006, classified files were still being carried from office to office by hand, but now new IT systems permit the exchange of photographs or entire files over a secure network. This has led to a substantial increase in the volume of material exchanged between countries and the ability to do this in real time.⁵⁵ That said, greater volumes of exchange are not always a panacea, since some European services are not configured to warehouse large quantities of information.⁵⁶





1 Indeed, for this reason, intelligence officers claim that the current
2 approach, resembling a distributed network, is more effective than creat-
3 ing central clearing houses or general EU/US ‘pooling’. However, lurking
4 underneath is also a profound abhorrence at the multilateral sharing of
5 compartmentalised intelligence.⁵⁷

6 The most startling example of the global reach of domestic security is
7 the appearance of intelligence liaison officers on the international scene
8 who belong to local rather than national bodies. The New York Police
9 Department (NYPD) has developed its own substantial counter-terrorist
10 intelligence capacity that is better resourced than that of some European
11 states. New York has successfully obtained \$100 million of federal funds
12 for counter-terrorism and has chosen David Cohen as its Deputy Commis-
13 sioner for Intelligence. Cohen is the only person to have led the CIA’s
14 clandestine service and also headed the CIA’s analytical division. Cohen
15 has been given a licence to build his own intelligence unit away from the
16 bureaucratic restraints of Washington. NYPD has used an unmarked
17 Brooklyn warehouse to house a substantial counter-terrorism centre while
18 a further hidden location in Manhattan provides a base for undercover
19 operations. Cohen has intelligence liaison officers in London, Paris, Tel
20 Aviv and across the Middle East and Africa.⁵⁸ These developments confirm
21 the fact that the architecture of intelligence cooperation remains a
22 complex network with few key nodes or hierarchies and not a little dupli-
23 cation. The extent to which the sharing of sensitive data remains mostly
24 bilateral is underlined by the fact that American officials often complain
25 about the burden of liaising with twenty-seven European states each of
26 whom boast several intelligence and security services. Equally, Europeans
27 confront the perplexing task of interfacing with some twenty separate
28 American intelligence and security agencies.⁵⁹

31 *The privatisation of intelligence*

32 Perhaps the least addressed issue in terms of international cooperation is
33 the interface between public and private. Joint activities between two states
34 may now include collaboration between private entities, rendering this
35 doubly opaque to oversight bodies. The United States, arguably the hub of
36 a complex network of intelligence exchange between many countries, now
37 operates a semi-privatised intelligence system. Large contractors such as
38 Booz Allen Hamilton, with annual revenues of some \$4 billion, have drawn
39 alongside the traditional agencies. The growth of privatisation in the
40 American intelligence community began in the late 1990s, when commer-
41 cial software companies began to pull ahead of the NSA in the field of
42 communication technologies. By 1999, NSA had decided to try to revital-
43 ise its tired infrastructure by inviting in the contractors. Its senior manag-
44 ers declared: ‘Over the last thirty years NSA has hired many government
45 employees to perform jobs that are best done by the private sector’ and set





out to reverse that trend. Meanwhile, NSA has especially strong relationships with its alliance partners who are also heading down the same road.⁶⁰

Under the Bush administration privatisation accelerated. The post-9/11 period saw both the CIA and the Pentagon short of linguists and other specialists who had often been 'let go' in the downsizing that followed the end of the Cold War. It was quicker and easier to turn to companies with employees with security clearances on their staff. These clearances are very time consuming to obtain and are nearly always earned during prior employment with the agencies. The scale is now remarkable. Tim Shorrock has estimated that of a US intelligence community budget of over \$45 billion a year, close to half of this goes to contracts for private companies. The overall spending on privatised commercial intelligence activity since 2002 is higher than the total of \$33 billion the Bush administration paid to large corporations for reconstruction projects in Iraq. In certain areas of activity they have now secured a private monopoly of certain types of skills and activities. In many cases the teams undertaking tasks in Iraq have been notably cosmopolitan in their composition, making them perhaps the ultimate example of multination liaison. The key players are Booz Allen, Science Applications International Corp., General Dynamics, Lockheed Martin, Northrop Grumman and CACI International. It has been estimated that Booz Allen Hamilton alone employs some 10,000 TS/SCI cleared personnel. This means people are cleared for top secret sensitive compartmentalised intelligence, the most restricted security ratings. This would place Booz Allen alongside the CIA and NSA as a major employer of cleared personnel in the United States. These individuals are not subject to the same oversight provisions as US government employees. Yet it is certain that they are in receipt of significant streams of classified material from Europe, Canada and Mexico, typically in the context of substantial contracts focused on border control.⁶¹

The challenges posed by intelligence cooperation

On 10 March 2009, a new thematic report on intelligence was discussed at the UN Human Rights Council in Geneva. Martin Scheinin, the UN Special Rapporteur on the protection of Human Rights while countering terrorism, presented his report and, importantly, he focused on the role of intelligence agencies in the fight against terrorism and the accountability problems that arise from the cooperation between these agencies. Scheinin did not mince his words and emphasised that he was 'gravely concerned' that intelligence cooperation might lead to international crimes. He argued that the concepts that underpinned many intelligence-sharing agreements meant that even liberal democracies that were opposed to torture might become complicit in serious abuses. Martin Scheinin, a professor of international law at the European University Institute in Florence, Italy, argued both for a strengthening of national





1 regulation and also a system of 'joint oversight', although there was little
2 detail on how this might be operationalised.⁶²

3 Arguably, this problem has been building for some time. In the 1990s,
4 the European intelligence services went through a regulatory revolution
5 during which many services were given a legal identity and in some cases
6 the European Convention on Human Rights was written into their core
7 guidance. Although implementation across Europe was uneven, govern-
8 ments asserted that this was a major step forward and that intelligence
9 services would increasingly be audited and called to account. However,
10 these new parliamentary oversight committees were always weak and now
11 stand on the sidelines, relatively powerless in the face of what appear to be
12 complex distributed networks that consist of the agencies of many coun-
13 tries working together with private entities. Not only are traditional mech-
14 anisms of intelligence oversight weak in the face of new patterns of
15 international intelligence cooperation, they also face intelligence services
16 that are larger, more vigorous and have less time for auditors. In October
17 2006, Ronnie Kasrils, the South African Minister for Intelligence Services,
18 cautioned against a recent trend, 'where oversight bodies appear to be
19 "missing in action", more especially in critical discussions about the
20 manner in which the "war on terrorism" is being waged, which has largely
21 become the preserve of the executive'.⁶³

22 A major constraint is the nature of multinational operations, which by
23 definition are rather opaque to national committees. When national com-
24 mittees seek to look at issues of international cooperation the results can
25 be disappointing. This is illustrated by the recent UK examination of ren-
26 ditions undertaken by its Intelligence and Security Committee. Much of
27 this consisted of intelligence chiefs proclaiming that international intelli-
28 gence cooperation is important and offers us a fascinating example of the
29 constrained national investigation of an international issue. However,
30 regional and international committees of inquiry have not fared much
31 better. The inquiries into secret prisons and rendition by the Council of
32 Europe, the European Parliament and then the European Commissions
33 were able to take evidence across all of Europe. However they lacked the
34 ability to secure a response from the various executives of EU member
35 states. It is not only a question of jurisdiction, but also of power.⁶⁴

36 Some might argue that legal rather than political remedies are of
37 increasing importance. Certainly, the Council of Europe has placed more
38 emphasis on legal rather than political approaches.⁶⁵ In 2005, the Venice
39 Commission reviewed the impact of European and International Law
40 upon intelligence cooperation and its findings are significant. However,
41 the question remains: who will make these legal findings pertinent? On
42 the one hand, Iain Cameron has argued that the de facto influence of
43 bodies such as the European Court of Human Rights (ECHR) upon intel-
44 ligence activities is limited.⁶⁶ On the other hand Garret Jones insists that
45 secret agencies spend an inordinate amount of time arguing with their





lawyers before conducting a major operation. Mid-level managers are anxious to secure clear instructions from the executive branch before acting. CIA officers have increasingly found themselves required to retain lawyers to defend themselves against their own Inspector General. Indeed some practitioners agree with Michael Scheuer's assertion that the CIA is increasingly 'palsied by lawyers'.⁶⁷

Following the work of the Venice Commission, European intelligence officers must surely be more conscious of the provisions of ECHR when working with other countries.⁶⁸ The European intelligence and security services recognise that the particular ways in which they sought to embrace ECHR within specific national legislation in the 1990s, may yet prove an impediment to transatlantic intelligence cooperation. European states are seeking more robust legal safeguards when working with the United States. Typically, on 12 July 2006, the Swiss signed a new agreement with Washington on counter-terrorist cooperation. The new arrangement also provides for tighter restrictions regarding the use of the information obtained. It is clear that the new arrangements provide stronger legal protection to those under investigation and tied cooperation more closely to a judicial processes.⁶⁹

What else might provide a check on increasingly globalised intelligence activity? Although globalisation has failed to produce effective global governance, it has spawned a vast network of global civil society and human rights campaigners. In their wake they have brought enhanced expectations for ethical foreign policy, regulation, transparency and accountability. Indeed, globalisation may have offered its own partial solution to the problem of accountability by gradually eroding the privilege of state secrecy. The result may be a growing culture of 'regulation through revelation'. After all, journalistic revelations have been instrumental in triggering inquiries by the Council of Europe and the European Parliament. A curious alliance of journalists, globalised activists and European institutions set the pace on renditions in late 2005.⁷⁰

Some would argue that investigative journalists, often working with whistle-blowers, have always been the advanced wave of intelligence accountability. There is little consensus about how the context of investigative journalism has changed over the last decade. Undoubtedly, since 9/11, governments not only sought to re-expand their intelligence services but also to tighten state secrecy. Some have argued that this new era of intense security represents a setback for transparency. However, others would argue despite a more praetorian attitude by the executive, the media, including new forms of reporting on the internet, have ensured that the intelligence services are now subject to a 'reverse gaze'. President Bush attempted to clamp down on journalists who specialise in intelligence such as James Risen, a reporter for the *New York Times*. However, the pressure on journalists covering transatlantic intelligence issues is unlikely to persist. In 2008, all presidential candidates committed themselves to a

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1 'Shield Law' protecting journalistic whistle-blowing and on 11 February
2 2009, legislation of this type, which failed to pass in 2005, was reintro-
3 duced on Capitol Hill. This was designed to protect journalists who were
4 working with whistle-blowers inside government whose purpose was to
5 uncover abuses. A draft version of the bill passed easily in March 2009, but
6 in September 2009 the final text was still being refined after protests from
7 the heads of the intelligence agencies.⁷¹

8 With formalised national systems of intelligence accountability looking
9 weaker, informal accountability through revelations provided by a glo-
10 balised media in tandem with activists and whistle-blowers, may become
11 more important. However, uncovering a particular issue – and addressing
12 it effectively – are two different things. There are few forms of machinery
13 at a national, regional or international level that have the purchase to deal
14 with problematic intelligence cooperation in detail. One possible response
15 would be an extension of the tried and tested system of Inspectors
16 General. It is not inconceivable to think of an Inspector General whose
17 remit might cover more than one country, perhaps eventually all of North
18 America and Europe. One wonders why a respected senior official from
19 say, Canada's Communications Security Establishment, could not act as a
20 roving Inspector General for the transatlantic area?⁷² Ultimately, intelli-
21 gence is a 'people business' and if the right person was chosen this would
22 work better than more regulation.⁷³

Notes

- 1 I am indebted to the Leverhulme Trust for a fellowship that facilitated this chapter. A number of confidential interviews were conducted to clarify some findings. I would like to record my gratitude to Matthew Aid, Adam Svendsen, Martin Rudner, Cees Wiebes, Aidan Wills and others who have drawn my attention to relevant material.
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