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ARTICLE 4 OF THE NORTH ATLANTIC TREATY[†]

*Sherrod Lewis Bumgardner**

Article 4

The Parties will consult together whenever, in the opinion of any of them, the territorial integrity, political independence or security of any of the Parties is threatened.¹

INTRODUCTION

Article 4 is a statement of action. Mandatory consultation by the Parties together occurs when any Party believes the territorial integrity, political independence, or security of any of the Parties is threatened. The Parties confirmed the reach of Article 4 through a written interpretive minute of the text of the North Atlantic Treaty at the conclusion of the top-secret negotiations that created the North Atlantic Alliance. “Article 4 is applicable in the event of a threat in any part of the world, to the security of any of the Parties, including a threat to the security of their overseas territories.”² While not included in the interpretive minute, very early in the negotiations the Parties recognized the power of consultation and agreed to use it to address undefined threats such as “indirect aggression.”³

One 21st Century view is that Article 4 enshrines territorial integrity, political independence, or security as “NATO’s original threat perception.”⁴ But

[†] This Article contains views provided in the author’s personal capacity and may not reflect agreed upon policy or views of NATO Headquarters Supreme Allied Commander Transformation or the North Atlantic Treaty Organization.

^{*} Allied Command Transformation, Staff Element Europe.

¹ North Atlantic Treaty art. 4, Apr. 4, 1949, 63 Stat. 2241, 34 U.N.T.S. 243. The United States is the depository for the North Atlantic Treaty, see *NATO Status Lists*, U.S. DEP’T OF STATE (June 18, 2019), <https://www.state.gov/nato-status-lists/> (providing the North Atlantic Treaty at the United States depository).

² Minutes of the Eighteenth Meeting of the Washington Exploratory Talks on Security, March 15, 1949 in *FOREIGN RELATIONS OF THE UNITED STATES, 1949, WESTERN EUROPE, IV*, OFFICE OF THE HISTORIAN (1949).

³ *See id.*; Minutes of the Fifth Meeting of the United States—United Kingdom—Canada Security Conversations, Held at Washington, March 31, 1948 in *FOREIGN RELATIONS OF THE UNITED STATES, 1949, WESTERN EUROPE, III*, OFFICE OF THE HISTORIAN (1948). *See also* TIMOTHY ANDREWS SAYLE, *ENDURING ALLIANCE: A HISTORY OF NATO AND THE POSTWAR GLOBAL ORDER*, 16 (2019) (“In the early security conversations American, British and Canadian diplomats had considered how to meet what they knew to be the real threat—what Kennan called ‘political conquest’ and what others called ‘indirect aggression.’”).

⁴ ALEXANDER ORAKHELASHVILI, *COLLECTIVE SECURITY*, 185 (2011).

this view overlooks Article 4 as a means, through consultation, to collectively consider threats that were something other than an armed attack.

To explain this broader view of the role of Article 4 during the seventy-year history of the North Atlantic Alliance, this essay has three aims. First, to use now available declassified online records of the negotiation of Article 4 and the North Atlantic Treaty to show how the Parties drafted Article 4 to ensure their response to the threat of aggression, short of an armed attack, remained consistent with the Charter of the United Nations. Second, to summarize the role Article 4 has played in the process of consultation of Parties to the North Atlantic Treaty and in the North Atlantic Treaty Organization (NATO). Third, and finally, to highlight how the Parties through subsequent agreement have relied upon Article 4 in NATO's Strategic Concept, the high-level policy guiding NATO's evolution, to undertake new tasks.⁵

I. DRAFTING ARTICLE 4

As Lawrence S. Kaplan has described, by 1948 the United Nations Security Council could not fulfill its decision-making responsibilities about threats to peace, breaches of the peace, and actions of aggression as required by Article 39 of the U.N. Charter.⁶ To address this reality, in December 1948 the British Foreign Secretary, Ernest Bevin, encouraged by France, proposed to the United States Secretary of State, George Marshall, a system of Western defense that also protected overseas territories.⁷ The United States responded by hosting on March 22, 1948 in a clandestine corner of the Pentagon, the United States-United Kingdom-Canada Security Conversations on alternative international security arrangements.⁸

During the six meetings, “the most secret ever held in Washington,”⁹ the British sought “a firm commitment on the part of the US to aid militarily in the

⁵ See generally *Active Engagement, Modern Defence: Strategic Concept for the Defence and Security of the Members of the North Atlantic Treaty Organization*, NATO SUMMIT (Nov. 19–20, 2010), https://www.nato.int/strategic-concept/pdf/Strat_Concept_web_en.pdf.

⁶ See Lewis Kaplan, *Origins of NATO: 1948–1949 Overview*, 34 EMORY INT'L L. REV. 11–28 (2019) (article can be found earlier in this issue); *Why the Treaty Was Signed*, in THE NATO HANDBOOK (1952); U.N. Charter art. 39.

⁷ Telegram from the Chargé in London (Gallman) to the Secretary of State, Foreign Relations of the U. S., Document 1,840.00/12-2247 (Dec. 22, 1947), <https://history.state.gov/historicaldocuments/frus1948v03/d1>.

⁸ ESCOTT REID, TIME OF FEAR AND HOPE, 71 (1977); Cees Wiebes and Bert Zeeman, *The Pentagon Negotiations March 1948: The Launching of the North Atlantic Treaty*, 59 INT'L AFF. 351, 356 (1983).

⁹ ROLAND PHILIPPS, A SPY NAMED ORPHAN: THE ENIGMA OF DONALD MACLEAN, 201 (2018).

event of any aggression in Europe.”¹⁰ This request matched the strategic thinking of both the U.S. and Canada. Since early 1948 the United States had been considering a new collective defense arrangement.¹¹ Independently Canada was exploring a response to the threat of attack or aggression not subject to Security Council veto.¹² The outcome of the tri-nation meeting was agreement by the United States to pursue formation of a North Atlantic regional security arrangement as a U.S. led initiative.¹³ A U.S. position paper was drafted explaining proposed next steps and Western European nations to be invited to a larger discussion of this new defense arrangement.¹⁴ Based upon a shared understanding by the United States, the United Kingdom, and Canada of what a new treaty would require, the position paper also proposed eight provisions for the defense agreement.¹⁵ Paragraph 5.f. became the first version of what would later become Article 4 of the North Atlantic Treaty, identifying the concepts of armed attack and indirect aggression as the two threats to territorial integrity and political independence.¹⁶ It states that “Provision for consultation between all the Parties in the event of any Party considering that its territorial integrity or political independence is threatened by armed attack or indirect aggression in any part of the world.”¹⁷

The Washington Security Talks¹⁸ began the negotiation of a North Atlantic security pact on July 6, 1948 with twenty senior ambassadors and diplomats of six nations present.¹⁹ After nineteen meetings, on September 9, 1948, they

¹⁰ Minutes of the First Meeting of the United States—United Kingdom—Canada Security Conversations, Held at Washington, March 22, 1948 in FOREIGN RELATIONS OF THE UNITED STATES, *supra* note 3.

¹¹ SIDNEY SNYDER, FINGERPRINTS ON HISTORY, THE NATO MEMOIRS OF THEODORE C. ACHILLES, 14 (Lawrence S. Kaplan & Sidney R. Snyder eds. 1992).

¹² Escott Reid, *The Birth of the North Atlantic Alliance*, 22 INT’L J. 426, 427 (1967).

¹³ See Minutes of the Third Meeting of the United States—United Kingdom—Canada Security Conversations, Held at Washington, March 24, 1948 in FOREIGN RELATIONS OF THE UNITED STATES, *supra* note 3.

¹⁴ See Minutes of the Sixth Meeting of the United States—United Kingdom—Canada Security Conversations, Held at Washington, April 1, 1948 in FOREIGN RELATIONS OF THE UNITED STATES, *supra* note 3.

¹⁵ *Id.*

¹⁶ *Id.*

¹⁷ *Id.*

¹⁸ REID, *supra* note 8, at 47, Table 1: Intergovernmental Meetings. This meeting was the second stage of the intergovernmental meetings held in Washington D.C. that produced the North Atlantic Treaty. The first stage was Three Powers Meeting that occurred in the Pentagon between the United States, Great Britain, and Canada from March 22–April 1, 1948. The second stage was the Six Powers Meeting between United States, Great Britain, Canada, France, Belgium, and the Netherlands from July 6–September 10, 1949. The third stage was the Seven Powers Meetings that included Luxembourg from December 10–24, 1948. The fourth stage was the Seven to Eight Powers Meetings from January 10–March 28, 1949 when Norway joined the discussions on March 4, 1949. See *id.*

¹⁹ Minutes of the First Meeting of the Washington Exploratory Talks on Security, July 6, 1948, 11:30

completed the *Memorandum by the Participants in the Washington Security Talks, July 6 to September 9, Submitted to Their Respective Governments for Study and Comment*.²⁰

The *Memorandum* recommended “those nations having a primary interest in the security of the North Atlantic area should collaborate in the development of a regional or collective defence arrangement ... Such action should be taken within the framework of the Charter of the United Nations.”²¹ It echoed statements that George F. Kennan, who took part in the discussions, had made in his 1946 *Long Telegram* and published in the 1947 article, *The Sources of Soviet Conduct*.²² “The U.S.S.R. under Kremlin dictatorship, utilizing the technique of indirect aggression and the threat of direct aggression, is an implacable enemy of western civilization and the present situation in Europe must be regarded as extremely insecure.”²³

The *Memorandum* offered an “Outline of Provision Which Might be Suitable for Inclusion in a North Atlantic Security Pact.”²⁴ This version broadened Article 4. Specific citations to the Rio and Brussels treaties were included so national governments could check the references the drafters drew from:

Provision for consultation (a) in the event of a threat to the integrity of the territory or the sovereignty or the political independence of a Party, (b) in the event of an armed attack against a Party outside the area delineated in article 7, (c) if the security of any Party should be affected by an armed attack against a nation not a party to the Treaty, or (d) in

a.m. in FOREIGN RELATIONS OF THE UNITED STATES, *supra* note 3.

²⁰ See generally *Memorandum by the Participants in the Washington Security Talks, July 6 to September 9, Submitted to Their Respective Governments for Study and Comment* in FOREIGN RELATIONS OF THE UNITED STATES, *supra* note 3.

²¹ *Id.*

²² See generally Telegram from the Chargé in the Soviet Union (Kennan) to the Secretary of State, Foreign Relations of the United States, Soviet Union Telegram, Document 475, 861.00/2-224.6 (Feb. 22, 1946), <https://history.state.gov/historicaldocuments/frus1946v06/d475>; George F. Kennan, *The Source of Soviet Conduct*, 25 FOREIGN AFF. 566, 581–82 (1947). George F. Kennan served as the Director of Policy Planning in the United States State Department from 1947 to 1948 and participated in the Washington Security Talks. See George Frost Kennan, OFFICE OF THE HISTORIAN, <https://history.state.gov/departmenthistory/people/kennan-george-frost>.

²³ See generally *Memorandum by the Participants in the Washington Security Talks*, *supra* note 20.

²⁴ *Id.*

the event of any other fact or situation which might constitute a threat to the peace. (Rio, Art. 6; Brussels, Art. VII, Par. 2).²⁵

Noticeably absent was the phrase, *indirect aggression in any part of the world*, proposed in the April 1948 draft.²⁶ This deletion sustained the comment made in the minutes of the United States-United Kingdom-Canada meetings. “Abandon any attempt to define ‘indirect aggression’ substituting therefore provisions for consultation in the event any party to the pact considers itself thus menaced.”²⁷ This comment captured the United States and British view that, “indirect aggression could not and should not be defined, as this might suggest that the signatory powers were attempting to interfere in the internal affairs of other states.”²⁸

The Washington Exploratory Talks on Security reconvened in December 1948 following the November reelection of President Harry Truman.²⁹ Three meetings occurred. On December 13, after considering the September 9 version of Article 4 proposed in the *Memorandum*, Canada observed:

The proposed treaty contemplated consultation between the parties in the event of a threat to peace anywhere in the world. This would be a matter more for Foreign Ministers or their representatives than for Defense Ministers or Chiefs of Staff. There should therefore be, as the senior agency under the treaty, some sort of council on a ministerial level made up of Foreign Ministers or their deputed representatives. This council would have the task of creating any other agencies necessary to give effect to the treaty.³⁰

This proposal to create a decision-making body within the Alliance was woven into the 19-page report delivered on December 24, 1948. Annex A to this

²⁵ *Id.*

²⁶ See Minutes of the Fifth Meeting of the United States—United Kingdom—Canada Security Conversations, *supra* note 3.

²⁷ See *id.*

²⁸ See REID, *supra* note 8, at 159.

²⁹ See generally Minutes of the Ninth Meeting of the Washington Exploratory Talks on Security, December 13, 1948, 2:30 p.m. in FOREIGN RELATIONS OF THE UNITED STATES, *supra* note 3.

³⁰ *Id.*

report provided a new draft treaty and included an organizational article that established a council.³¹ Shorter Article 4 now contained just two clauses:

Article 4 (Consultation)

The Parties will consult together whenever, in the opinion of any of them,
 (a) the territorial integrity, political independence or security of any of the Parties is threatened; or
 (b) there exists any situation which constitutes a threat to or breach of the peace.³²

The Nations judged the shorter draft sufficient to cover “all threats to the peace, including attacks against the overseas territories of any of the parties to the Treaty.”³³ The draft of Article 6 provided equivalent notice to the Security Council when Article 4 consultation occurred or, following an armed attack, Article 5 actions were taken. Article 6(2) provided, “Any fact or situation constituting a threat to or breach of the peace and deemed to require consultation under Article 4, or any armed attack requiring action under Article 5, shall be immediately reported to the Security Council.”³⁴

The nations accepted Article 4 as final on January 14, 1949.³⁵ The text permitted the Parties to consult together about threats to “territorial integrity, political independence or security of any of the Parties.”³⁶ The territorial scope of matters subject to consultation was world-wide, including overseas territories.³⁷ The Parties also understood consultation could occur about threats

³¹ Report of the Int'l Working Group to the Ambassadors' Committee, in *FOREIGN RELATIONS OF THE UNITED STATES*, *supra* note 3.

³² *Id.* Though not mentioned in the State Department minutes, the United States objected to paragraph (b) in the December version as too broad and suggesting an organization that rivaled functions of the Security Council. Consequently paragraph (b) was removed on Jan. 14, 1949. See NICOLAS HENDERSON, *THE BIRTH OF NATO*, 78–79 (1983); see also John F. Hickman, *North Atlantic Pact: The Drafting of the Treaty*, PACT D-6/1, (Mar. 29, 1949) (This 81-page type-written and stapled document was prepared for the United States Secretary of State Dean Acheson following the completion of the negotiations and provides all of the changes of the text of the treaty from the first exploratory conversation in July 1948 through the final text released on 18 March 1949. It was declassified by the United States Mission to NATO and provided to the NATO Archives for public release.) (Copy in possession of the author.).

³³ *Id.*

³⁴ *Id.* This provision was deleted from the text of Article 6 on Mar. 5, 1949. See Hickman, *supra* note 32 at Tab G, 2.

³⁵ See Hickman *supra* note 32, at 13.

³⁶ North Atlantic Treaty, *supra* note 1.

³⁷ Minutes of the Eighteenth Meeting of the Washington Exploratory Talks on Security, *supra* note 2.

not amounting to an armed attack such as indirect aggression³⁸ or aggression by subversive action.³⁹

While these understandings provide some scope to the consultations Article 4 offers, much is left unstated about the workings of these consultations. What kind of threat is valid? What level of threat to the core interests listed in Article 4 may cause a Party to call for consultation?

At the March 4, 1949 meeting, the newly arrived Norwegian Ambassador, Mr. Morgenstierne, asked, “whether consultation between members had to be limited to instances where one of the parties felt threatened. Could it not also take place in connection with political matters?”⁴⁰ Could Article 4 be interpreted to include consultation on other matters?⁴¹

The Ambassadors who had been negotiating the Treaty since July 1948 replied that a call for Article 4 consultation was a call to consider aggression against a Party by subversive action.⁴² Permissive political consultation could be brought before the North Atlantic Council if it “had a bearing on the execution of the Treaty.”⁴³

While this distinction narrowed Article 4 consultation, it confirmed the broad range of subjects requiring political consultation by the North Atlantic Council.⁴⁴ Left unsaid was how the process of consultation—whether mandatory

³⁸ Minutes of the Fifth Meeting of the United States—United Kingdom—Canada Security Conversations *supra* note 3. This understanding was first stated in the minutes of the March 31, 1948 United States—United Kingdom—Canada Security Conversation. *Id.* ¶ b. On March 15, 1948 the United States representative, Mr. Hickerson, who was likely the author of the March 31, 1948 comment, stated “Direct aggression was dealt with in Articles 3 and 5, and indirect aggression was left for Article 4, on consultation.” Minutes of the Eighteenth Meeting of the Washington Exploratory Talks on Security, *supra* note 2.

³⁹ This understanding was stated on March 4, 1949 in response to a question by the Norwegian Ambassador about Article 4. The Dutch Ambassador “Mr. Van Kleffens wondered whether the Norwegian Ambassador should be informed that the is Article [4], through the word ‘security,’ covered also aggression by subversive action. See Minutes of the Fifteenth Meeting of Washington Exploratory Talks on Security in FOREIGN RELATIONS OF THE UNITED STATES, *supra* note 2.

⁴⁰ *Id.*

⁴¹ *Id.* (“Article 4 would not be interpreted as to exclude consultation on other matters than those specifically mentioned.”).

⁴² *Id.*

⁴³ See REID, *supra* at 8, 164–65. (stating the view of Ambassador Wrong of Canada.)

⁴⁴ See *The Evolution of NATO Political Consultation*, NATO ARCHIVES, <https://www.nato.int/archives/docu/d630502e.htm> (“[T]he principle of continuing political consultation between the Alliance partners is clearly implied by the Preamble and Articles 2, 3, 4 and 9 of the Treaty; the principle that NATO political consultation is not necessarily confined to the area defined in 1949 follows from the Treaty which mentions no such geographical limits to. Article 6 refers to the commitments mentioned in Article 5 not to Article 4 or other

or permissive—would result in decisions or actions. This silence exists because the North Atlantic Treaty contains no obligation for a Party or the Parties to take action following Article 4 consultation.⁴⁵

The United States made the North Atlantic Treaty public on March 18, 1949.⁴⁶ At the April 4, 1949 signing ceremony, President Truman emphasized the centrality of Article 4 consultation to the purpose of the Treaty in his address:

This treaty is a simple document. The nations which sign it agree to abide by the peaceful principles of the United Nations, to maintain friendly relations and economic cooperation with one another, to consult together whenever the territory or independence of any one of them is threatened, and to come to the aid of any one of them which may be attacked.⁴⁷

II. ARTICLE 4 IN PRACTICE 1949–2019

A. Consultation

The first meeting of the North Atlantic Council occurred on September 17, 1949 in Washington, D.C.⁴⁸ The Council stated its purpose was to assist the Parties, “in accordance with the Charter, in achieving the primary purpose of the United Nations—the maintenance of international peace and security.”⁴⁹ It then declared the North Atlantic Treaty constitutes the Council’s Terms of Reference and described the location of Council Sessions, Chairmanship, Languages, methods of Permanent Coordination, and created subsidiary bodies.⁵⁰ Invocations of either Article 4 or Article 5 would cause extraordinary Council meetings.⁵¹

Like the silence in the Treaty concerning decision-making following Article 4 consultation, the Council at their first meeting issued no formal procedures for

relevant articles.”).

⁴⁵ Richard H. Heindel et al., *The North Atlantic Treaty in the United States Senate*, 43 AM. J. INT’L L. 633, 652 (1949). See also RICHARD GARDINER, TREATY INTERPRETATION, 2d, 165 (2015) (“Sometimes the absence of something means simply that it is not there.”).

⁴⁶ See FOREIGN RELATIONS OF THE UNITED STATES, *supra* note 2, Editorial Note.

⁴⁷ Harry S. Truman, President of the United States of America, Address at the Signing of the North Atlantic Treaty in Washington, D.C. (April 4, 1949).

⁴⁸ *North Atlantic Council: Communiqué*, 44 AM. J. INT’L L. 22 (1950).

⁴⁹ *Id.*

⁵⁰ *Id.* at 23–27.

⁵¹ Thorsten V. Kalijarvi and Francis O. Wilcox, *The Organizational Framework of the North Atlantic*

decision-making and never has.⁵² The Alliance, since 1952, continues to rely on the process of consultation to reach decisions by consensus as occurred when the Parties drafted the North Atlantic Treaty.⁵³ As observed after the first Council meeting, “The responsibility for making final decisions . . . lies with the respective governments rather than with the Council itself.”⁵⁴ What has remained important for the past seventy years is the process of consultation for the Allies, as sovereign states, to reach a collective decision whether or not they are using the—albeit limited—Article 4 process of consultation.⁵⁵

In the 20th Century, no member of the Alliance called for Article 4 consultation. However, in 1951, carrying on the question raised by Norway in the last days of the negotiation of the North Atlantic Treaty, Article 4 became a useful early reference for distinguishing emergency consultations from political consultations.⁵⁶

The Committee considered the phrase “frequent consultation” in the terms of reference of the Committee to have the general meaning of exchanges of views on policy matters with a view to possible coordinated action, rather than the technical meaning of the word “consultation” as used in Article IV of the Treaty where it clearly refers to situations of emergency.⁵⁷

In 1954, the first Secretary General of NATO, Lord Ismay, emphasized Article 4 consultation as a deterrence measure before an armed attack:

The mutual guarantees provided by Articles 3 and 5 are strengthened by Article 4, under which the Parties undertake to consult whenever one of them considers that there is a threat to the territorial integrity, political independence or security of any of them. This Article provides for consultation before an armed attack has taken place. It

Treaty, 44 AM. J. INT'L L. 155, 157 (1950)

⁵² *Id.*

⁵³ *Founding Treaty*, NORTH ATLANTIC TREATY ORG. (Jan. 30, 2017), https://www.nato.int/cps/en/natohq/topics_67656.htm?selectedLocale=en (“In addition to collective defence and key values, the principle of consensus decision-making and the importance of consultation define the spirit of the Organization, together with its defensive nature and its flexibility.”).

⁵⁴ Thorsten Kalijarvi and Francis Wilcox, *supra* note 56, at 157.

⁵⁵ 16 NATO LETTER 5, January 1968, (NATO Information Services, Brussels), Report on the Future Tasks of the Alliance, 26. (Copy on file with the author.)

⁵⁶ See Minutes of the Fifteenth Meeting of Washington Exploratory Talks on Security *supra* at note 39.

⁵⁷ *Interim Report by the Committee on the North Atlantic Community*, NATO ARCHIVES, n. 1 (Nov. 26, 1951), http://archives.nato.int/uploads/r/null/1/9/19841/C_8-D_6_ENG.pdf

applies if the security of one or more of the NATO countries is threatened.⁵⁸

The 1956 Report of the Committee of Three on Non-Military Cooperation in NATO envisioned “an Atlantic Community whose roots are deeper even than the necessity for common defence.”⁵⁹ It also identified Article 2 and Article 4 as important for non-military cooperation.⁶⁰ “These two Articles, limited in their terms but with at least the promise of the grand design of an Atlantic Community, were included because of this insistent feeling that NATO must become more than a military alliance.”⁶¹ The NATO Information Service pamphlet, *Aspects of NATO: Political Consultation*, published in 1969, returned to the more utilitarian appreciation of Article 4 consultation by republishing the 1951 Council Report:

Special attention must be paid, as explicitly recognized in Article 4 of the Treaty, to matters of urgent and immediate importance to the members of NATO, and to “emergency” situations where it may be necessary to consult closely on national lines of conduct affecting the interest of the members of NATO as a whole.⁶²

B. Request for Article 4 Consultations

The emergency situation foreseen by the drafters of the North Atlantic Treaty and contemplated in 1969 arrived in February of 2003.⁶³ As the United States prepared for conflict with Iraq, Turkey requested Article 4 consultation.⁶⁴ Through a process of consensus and after shifting the consultation from the North Atlantic Council to the Defence Planning Committee, NATO was able to provide Turkey with the defensive support it requested.⁶⁵ Since then, four extraordinary meetings of the North Atlantic Council have occurred at the request of NATO nations for Article 4 consultations. Three of these meetings have been in support of Turkey.⁶⁶ In 2014, Poland called for Article 4

⁵⁸ HASTINGS LIONEL ISMAY, *NATO-THE FIRST 5 YEARS 1949–1954*, 14 (1954).

⁵⁹ *Report of the Committee of Three*, NORTH ATLANTIC TREATY ORG. (Dec. 13, 1956), https://www.nato.int/cps/en/natohq/official_texts_17481.htm.

⁶⁰ *Id.*

⁶¹ *Id.*

⁶² NATO INFORMATION DIVISION, *ASPECTS OF NATO: POLITICAL CONSULTATION*, 18 (1969).

⁶³ See generally *NATO and the 2003 Campaign Against Iraq*, NORTH ATLANTIC TREATY ORG., https://www.nato.int/cps/en/natohq/topics_51977.htm.

⁶⁴ *Id.*

⁶⁵ Aaron D. Lindstrom, *Consensus Decision-making in NATO: French Unilateralism and the Decision to Defend Turkey*, 4 *CHI. J. INT’L L.* 579 (2003).

⁶⁶ See generally *NATO support to Turkey: Background and Timeline*, NORTH ATLANTIC TREATY ORG. (Feb. 19, 2013), https://www.nato.int/cps/su/natohq/topics_92555.htm.

consultation after Russia's aggression and military intervention into Ukraine.⁶⁷ Following this consultation, NATO suspended civilian and military cooperation with Russia.⁶⁸

C. NATO's Strategic Concept

The Strategic Concept of NATO is a means to operationalize the global perspective contained in Article 4 to protect the North Atlantic Alliance from threats that may arise anywhere in the world.⁶⁹ In addition to the emergency consultation role Article 4 plays within the framework of the North Atlantic Treaty, Article 4 has been featured as a core capability of the Alliance in each of NATO's three Strategic Concepts⁷⁰ since 1991. The 1991 Strategic Concept identified as a primary task of the Alliance, "To serve, as provided for in Article 4 of the Washington Treaty, as an essential transatlantic forum for Allied consultations on any issues that affect their vital interests, including developments posing risks for members' security, and for appropriate coordination of their efforts in fields of common concern."⁷¹ The 1991 Security Concept also declared undertakings by NATO such as conflict prevention and crisis management through non-Article 5 crisis response operations.⁷² The 1999 Strategic Concept retained the Article 4 task of Allied consultation while also considering risks "of a wider nature including acts of terrorism, sabotage and organized crime, and by the disruption of the flow of vital resources."⁷³ Mass

⁶⁷ *Statement by the North Atlantic Council Following Meeting Under Article 4 of the Washington Treaty*, NORTH ATLANTIC TREATY ORG. (Mar. 4, 2014), https://www.nato.int/cps/en/natohq/news_107716.htm.

⁶⁸ *Relations with Russia*, NORTH ATLANTIC TREATY ORG., https://www.nato.int/cps/en/natolive/topics_50090.htm.

⁶⁹ DIIS REPORT 2011:02: NATO'S NEW STRATEGIC CONCEPT: A COMPREHENSIVE ASSESSMENT, 8 (2011), <https://www.econstor.eu/bitstream/10419/59845/1/656748095.pdf>.

⁷⁰ *Strategic Concepts*, NORTH ATLANTIC TREATY ORG., https://www.nato.int/cps/en/natolive/topics_56626.htm. ("The Strategic Concept is an official document that outlines NATO's enduring purpose and nature, and its fundamental security tasks. It also identifies the central features of the new security environment, specifies the elements of the Alliance's approach to security and provides guidelines for the adaptation of its military forces.")

⁷¹ *The Alliance's New Strategic Concept*, NORTH ATLANTIC TREATY ORG. (Nov. 8, 1991), https://www.nato.int/cps/en/natohq/official_texts_23847.htm.

⁷² *See id.*

⁷³ *The Alliance's Strategic Concept*, NORTH ATLANTIC TREATY ORG. (Apr. 10, 1999), https://www.nato.int/cps/su/natohq/official_texts_27433.htm?selectedLocale=en.

migration caused by conflict may affect Alliance stability and security and necessitate Article 4 consultation.⁷⁴

New functions for Article 4 continue in the 2010 Strategic Concept which, in 2019, remains in effect.⁷⁵ Article 4 consultation now permits, “Any security issue of interest to any Ally can be brought to the NATO table, to share information, exchange views and, where appropriate, forge common approaches.”⁷⁶ What these different uses of Article 4 in three Strategic Concepts show is that, as a matter of practice, Article 4 continues to evolve.

CONCLUSION

Summing up the legal value of Article 4 to the North Atlantic Treaty and the functioning of the North Atlantic Alliance requires taking stock of the great changes in the security landscape of the world during the past seventy years. The concept of multinational consultation was first envisioned as a coordination mechanism to deter “internal fifth-column aggression supported by the threat of external force, on the Czech model”⁷⁷ used by the Soviet Union to consolidate its hold over Eastern Europe. In the first draft of the text that became Article 4, emphasis was placed on the twin threat of armed attack or indirect aggression.⁷⁸ Yet as the number of nations willing to work together to protect the North Atlantic area increased from three to six to seven to eight and the lengthy negotiation of the Treaty continued, the importance of consultation to achieve consensus became more apparent.⁷⁹

When the North Atlantic Council came into being the only two mandatory meetings were if a call for Article 4 consultation was requested or an Article 5 response to an armed attack was required.⁸⁰ Thankfully neither of these meetings occurred in the 20th Century. Looking forward in 2019, despite the tragedy of the 9/11 attacks and the more recent need for Article 4 consultations, the NATO nations remain willing to continue to work together in a culture of consultation. Measured by this standard, the historic and still evolving significance of Article

⁷⁴ See generally *id.*

⁷⁵ See generally *Active Engagement, Modern Defence: Strategic Concept for the Defence and Security of the Members of the North Atlantic Treaty Organization*, *supra* note 5.

⁷⁶ *Id.* at 9.

⁷⁷ Memorandum by the Director of the Office of European Affairs (Hickerson) to the Secretary of State, Document 31, 840.20/3-848 (Mar. 8, 1948), <https://history.state.gov/historicaldocuments/frus1948v03/d31>.

⁷⁸ Minutes of the Fifth Meeting of the United States—United Kingdom—Canada Security Conversations, *supra* note 3.

⁷⁹ REID, *supra* note 8.

⁸⁰ Kalijarvi & Wilcox, *supra* note 56.

4 has certainly contributed to the success of the North Atlantic Alliance, the North Atlantic Treaty Organization and the ability of both to respond to a changing security environment.