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Regionalisation and Responses to Armed Conflict, with Special Focus on Conflict Prevention and Peacekeeping

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ABSTRACT

Regionalisation is the process through which governmental polities, civic society and the corporate sector share interests and combine resources to agreed common ends at the regional, as distinct from the national or global, level. It is the process – the array and sequence of events – by which regionalism (the state of, and attitudes towards, regional identity) is advanced. Regional organizations act on behalf of their constituents, the nation-state, as facilitators of regionalism. There is, however, no formal definition of a ‘region’ or a ‘regional organization’, the framers of the UN Charter having decided not to enter such definitions in the document.

Two of the Charter’s seven principles concern the maintenance of peace and security, viz; pacific settlement and the non-use of force. The three principal methods under the Charter for attaining peace and security are conflict prevention, enforcement and judicial settlement, each warranting a separate chapter for the global response to armed conflict. The past decade has witnessed the introduction of new concepts of peace (preventive diplomacy, conflict resolution, peace enforcement, crisis management, peace-building) that need to be made compatible with the principal framework of the Charter provisions.

Since the Charter was framed, the nature of the threats to peace and security has metamorphosed. The global threat perception as evinced through UN Security Council judgements and the regional threat perceptions of regional organizations may differ. Such differences may generate different regional responses to armed conflict from the global response.

The Charter is relatively clear on the institutional mechanism and authority for responding to armed conflict. Under Chapter VIII regional organizations are encouraged to take the initiative to engage in conflict prevention without reference to the UN Security Council, whereas they may simply be utilized by the Council for enforcement action as appropriate. It follows that a conflict prevention mechanism is a necessary feature of a regional organization operating under Chapter VIII of the Charter, while an enforcement capacity is optional.

In the early 1990s the international community made an attempt to strengthen the global response mechanism to armed conflict. The Security Council summit and the Secretary-General’s Agenda for Peace of 1992 presaged developments in the Council’s self-empowerment and the UN’s peacekeeping and enforcement capacity of potentially revolutionary proportions. But these aspirations collapsed in the wake of the mission setbacks and political failures of the mid-90s and the UN reverted to the more modest mechanism of stand-by arrangements and reliance on regional organizations for conflict prevention and peacekeeping.

The past decade has witnessed the strengthening of regional organizations for conflict prevention and peacekeeping and, to some extent, the strengthening of a UN-RO partnership to that end. The SG’s high-level meetings and the Security Council meetings with ROs have established the procedural mechanism for building an operational UN-RO partnership for peace, and this has been endorsed by the 2005 World Summit. It now remains, however, for this procedural mechanism to deliver

substance in terms of realising comparative advantage of participating organizations in responding to armed conflict.

For the regional-global partnership to commence substantive operation, a number of goals must be attained. Greater clarity is needed over identification of 'security regions' and over which organizations are genuinely 'regional' and 'sub-regional' for the purposes of Chapter VIII of the Charter. To this end, the Secretary-General could take an initiative to develop criteria for such a determination, and to invite interested organizations to declare their interest in operating under Chapter VIII.

This would not circumscribe other intergovernmental organizations from partnering with the United Nations in other related activities for peace and security under other provisions of the UN Charter.

1. Definitions: A Conceptual Clarification

An analysis of regionalisation and its response to armed conflict requires, in the first instance, some definitional attention. The three principal concepts of this paper – regionalisation, conflict prevention and peacekeeping, are therefore explored below.

(a) Regionalisation: Regional Organizations in Context

Regionalisation is the process through which governmental polities, civic society and the corporate sector share interests and combine resources to agreed common ends at the regional, as distinct from the national or global, level. The distinction is important, but largely overlooked, between processes of this kind that are truly regional and those that are cross-regional or trans-national. As will be shown, this has implications especially for the maintenance of peace and security, and not least conflict prevention and peacekeeping.

Regionalism¹ can be analysed by two principal dimensions: objective and method. The objective comprises the consciously-articulated end-state which the regional constituency aspires to attain.

In the broadest sense, the objective of regionalism may be of two kinds – total or partial. Total regionalism envisions political union in which formerly separate and discrete (sovereign) entities unite into one. Partial regionalism is confined within more delineated and focused parameters – in the security or socio-economic areas.

The method takes two procedural forms through which the objective is to be attained: cooperation or integration. Depending on the scale involved, security regionalism is

¹ The relationship between regionalisation and regionalism itself warrants consideration. Regionalisation is the process – the array and sequence of events – by which regionalism (the state of, and attitudes towards, regional identity) is advanced. That process may be politically purposeful, or not. Regional organizations act on behalf of their constituents, the nation-state, as facilitators of regionalism.

usually confined to cooperation among sovereign States, although it can envisage integration. Socio-economic regionalism may commence with cooperation (free trade agreements) but usually proceeds beyond this to integration (common industrial base, customs union; labour mobility; fiscal and monetary union). Socio-economic integration may serve as a prelude to an intended political union (defence and foreign policy; ultimately a confederated state), or it may be an end in itself.

It is within this broad context that regional organizations have developed. There is, as yet, no formal definition of a 'regional organization'. The UN Charter does not define 'region', its framers having decided, after much effort, against any self-restricting ordinance of that kind. A definition advanced during the San Francisco Conference in 1945² and voted down, however, gives as good a conceptual notion as is perhaps necessary:

"There shall be considered, as regional arrangements, organizations of a permanent nature grouping in a given geographical area several countries which, by reason of their proximity, community of interests or cultural, linguistic, historical or spiritual affinities make themselves jointly responsible for the peaceful settlement of any disputes which may arise ... as well as for the safeguarding of their interests and the development of their economic and cultural relations."³

It is generally accepted that the practical distinction between 'agency' and 'arrangement' concerns whether an inter-governmental organization exists as a legal entity with a functioning secretariat and address (an 'agency') or whether it is simply an arrangement by sovereign states through treaty-making (an 'arrangement').⁴ It has been suggested that little distinction exists between the two.⁵

(b) Peace and Security: Conflict Prevention and Peacekeeping in Context

Over the past century and especially in the latter half that comprises the UN era, the international community has laboured to construct an architecture of peace and security. Part of that architecture – the blueprint rather than the building material – is comprised of conceptual and doctrinal precepts, intended as normative, and occasionally binding, guidance for the behaviour of states.

All concepts pertaining to international peace and security in the current era must be derived from, and be compatible with, the Charter of the United Nations. Some concepts in modern usage are to be found in the Charter itself, while some have entered into modern parlance in recent years. What are these?

In pursuit of its purposes, the United Nations and its Members identify in the Charter seven principles that have defined, in theory, international order in the contemporary

² The Christian calendar is used for dating throughout this paper. Respect for inter-civilizational sensitivity may result, at some future stage, in a dating system more objectively suited to the universalist concerns of the international community. See K. Graham, *Global Governance: The Cultural Dimension*, 17th Aurelio Peccei Lecture, Club of Rome, Brussels, 29 June 2004, www.cris.unu.edu/pdf/OP%2520KENNEDY%2520GRAHAM%2520COR%2520Lecture.pdf+kennedy+graham+club+of+rome&hl=en

³ UNCIO XII, pp. 850, 857, 8 June 1945, in Simma, pp. 688-9. Also, Russett, Bruce 'International Regions and International System: Study in Political Ecology' (Rand McNally & Co.; Chicago; 1967) p. 4.

⁴ Simma, p. 694

⁵ Ibid.

age. The two that govern the maintenance of international peace and security are *pacif settlement* and the *non-use of force*.⁶

The three principal methods for implementing these principles involve collective measures for:

- (i) *prevention and removal of threats to the peace*; and
 - (ii) *suppression of breaches of the peace* (including acts of aggression);
- and
- (iii) *The peaceful adjustment or settlement of international disputes*.⁷

Each of these ‘methods’ warrants a separate chapter in the Charter for a global response to the problem of armed conflict: *pacif settlement* in Chapter VI, collective measures for enforcement action against threats or breaches to the peace and aggression in Chapter VII, and procedures for judicial settlement in Chapter XIV.⁸

Pacific settlement is comprised of six functions: negotiation, enquiry, mediation, conciliation, arbitration and judicial settlement.⁹ Enforcement action is comprised of three broad functions:

- *provisional measures* (which are left unspecified, and may involve peaceful or military means);¹⁰
- *peaceful measures* (economic, transport, telecommunications and diplomatic sanctions);¹¹
- *military measures* (demonstrations, blockade, or use of armed force).¹²

Thus a fairly elaborate fabric of peace exists to handle the ever-changing nature of global security. It cannot be said that the mechanism for ensuring peace at the global level does not exist. Yet to a significant extent the actions of the international community in peace and security are tethered only loosely to this framework. The global and regional responses to armed conflict are required to adapt to the continuous change in threats and instabilities in practical political and military terms while keeping the faith with the legal framework that is more immutable. This is accomplished by means of a ‘dynamic’ interpretation of the Charter and flexibility of institutions, both global and regional.

It may be queried whether such theoretical subtleties of legal and normative dimension have any meaning in today’s hegemonic world of overwhelming military preponderance where unilateralism and exceptionalism prevail. The answer is that respect for and adherence to the law is of critical importance for precisely that reason.

Reflecting that dynamism, new concepts and terms pertaining to peace and security have come into use since 1945. The most notable, *peacekeeping*, was introduced in

⁶ Article 2

⁷ Article 1.1

⁸ See article 2.5 & article 5.

⁹ Article 33.1

¹⁰ Article 40. In his *Agenda for Peace* of June 1992, the Secretary-General called for the establishment of ‘*peace enforcement units*’ which would be established under Article 40. (A/ , para).

¹¹ Article 41

¹² Article 42

the 1950s but the 1990s saw a number of inter-related concepts that are aimed at responding to the 'new realities which, if employed through institutional preference by different organizations, can risk some uncertainty and confusion.

In the past decade the UN has developed a 'framework for peace' that reflects a more sophisticated approach to the complex security challenges of the modern world than purely the collective security response to inter-state aggression formalised in the Charter. Since the end of the Cold War, with the spread of intra-state conflict and the experience the UN has gained, a lexicon for the increasingly diverse peace operations has been developed. The concepts employed are not rigorously distinguished for academic purposes but they broadly suffice for operational clarity.¹³ From its principal reports (Agenda for Peace, 1992; Agenda Supplement, 1995; Brahimi Report, 2000; SG Report on Conflict Prevention, 2001) and also from its website, the UN has developed a natural meaning for five principal operational concepts that comprise an inter-woven 'fabric of peace'.¹⁴ They are: conflict prevention,¹⁵ peace-making,¹⁶ peace-keeping,¹⁷ peace-enforcement¹⁸ and peace-building.¹⁹

A natural, albeit rough, chronology attends these five operational concepts. Conflict prevention is designed to ensure that imminent conflict does not erupt into violence. If this fails, peace-making efforts are undertaken to cease hostilities through peaceful

¹³ The United Nations goes to great lengths to disown responsibility for the precision or significance of its terminology. Its website disclaimer describes the material therein as the 'findings, interpretations and conclusions' of the UN staff, consultants or advisers who prepared the work which does not necessarily represent the views of the UN. It makes no representations as to the accuracy of the material and carries no liability for any damage resulting from use of the site.

¹⁴ Beyond the five concepts, however, the UN also refers to 'conflict management' and 'conflict resolution' without defining these two concepts (see http://www.un.org/Depts/dpa/prev_dip/fr_prev_dip_introduction.htm, accessed August 2004). It is concluded here that 'conflict management' is synonymous with 'peace enforcement' and 'conflict resolution' is synonymous with 'peacemaking'.

¹⁵ *Conflict prevention* comprises:

- preventive diplomacy: mediation, conciliation, negotiation
- preventive deployment: the fielding of peacekeepers to forestall probable conflict
- preventive disarmament: destroying old weapons and reducing small arms in conflict areas
- structural prevention: political, institutional and developmental efforts at root causes

¹⁶ *Peacemaking* refers to the use of diplomatic means to persuade parties in conflict to cease hostilities and negotiate a pacific settlement of their dispute. It includes:

- Security Council recommendations of ways to resolve a dispute
- Secretary-General's envoys or missions for fact-finding or negotiation
- Secretary-General's mediation between disputant parties

¹⁷ *Peacekeeping can cover any of the following four purposes:*

- *Conflict Prevention: deploy to prevent the outbreak of conflict or spill-over of conflict across borders;*
- *Ceasefire Verification: stabilize conflict situations after a ceasefire, to create an environment for the parties to reach a lasting peace agreement;*
- *Peace Implementation: assist in implementing comprehensive peace agreements;*
- *Governmental Transition: lead States or territories through a transition to stable government, based on democratic principles, good governance and economic development.*

¹⁸ *Peace Enforcement* refers to the use of force against one of the parties to enforce an end to hostilities. On several occasions the Security Council has authorized Member States to use 'all necessary means', including force, to achieve a stated objective in situations where consent of the parties is not required. This has occurred on seven occasions, viz. Korea in 1950; Iraq in 1990, Somalia in 1993, Rwanda in 1994, Bosnia-Herzegovina in 1995, Albania in 1997, and East Timor in 1999. See section 4.3.1 for further elaboration.

¹⁹ *Peace-building refers to assistance to countries and regions in the transition from war to peace. It includes:*

- demilitarization
- institution-building, including police & judicial systems
- human rights promotion
- election-monitoring
- political participation
- rehabilitation
- economic & social development

means. If peace-making fails, peace-enforcement may be used to force a party to negotiate or withdraw from a conflict area. Once hostilities end, even through a temporary cease-fire, peace-keeping is undertaken.²⁰ Once a peace settlement is concluded, peace-building commences to ensure non-recidivism.

While these concepts are operationally adequate, their precise relationship to the UN Charter is less clear and there remains some overlapping in their meaning. The degree of imprecision commensurately retards the natural strengthening of a ‘regional-global security mechanism’ for responding to armed conflict.

Since the UN Charter was framed, however, the nature of the threats to international peace and security has metamorphosed in fundamental ways. Table 1 shows the extent to which this has occurred in terms of the principal threat perception at the global level, in the form of the UN Security Council’s judgements.²¹

Table 1. Metamorphosis in Global Threat Perception (1945-2005)

Nature of Threat to International Peace and Security (Perception of UN Security Council)							
	Inter- State Aggress- ion	Intra- State Instabilit y	Inter- Region Instability	Terroris m	WMD Prolifera -tion	Organiz ed Crime	Socio- Econom ic Instabilit y
194 5	A	C	C	D	C	D	D
195 5	A	C	C	D	C	D	D
196 5	A	C	C	D	B	D	D
197 5	A	B	B	B	B	B	D
198 5	B	B	B	B	B	B	C
199 5	C	A	A	A	A	A	C
200 5	C	A	A	A	A	B	B

Key: A = primary threat; B = significant threat; C = modest threat; D = minor threat

The table depicts the global perception of the threat to peace in terms of risk of armed conflict and the stakes involved. The regional perceptions do not necessarily mirror this. Each regional perception, moreover, is different. A table could be constructed

²⁰ Operationally, some complexity arises with regard to the concept of ‘peace-keeping’ since it can be undertaken in conflict prevention and peace-building phases of UN operations as well as being undertaken in its own right. Its principal functions, however, are to verify temporary cease-fires or assist in implementation of permanent peace agreements.

²¹ The threat clusters identified reflect the judgement of the 2004 UN High-Level Panel on Threats, Challenges and Change (A/59/565, 29 November 2004). The intensity of threat perception identified in the Table reflects the author’s own judgement.

for each region (begging the question of what is a ‘region’ and stressing the inherently subjective, or even existential, nature of that regional perception).

These differences in threat perception generate different regional responses to armed conflict in terms of the type of threat for which a regional organization judges it necessary to develop a conflict prevention mechanism, and appropriate (or not) to develop a peacekeeping or enforcement mechanism. A conflict prevention mechanism to avert conflict deriving from poverty, environmental degradation, skewed trading system and post-colonial ethnic confusion, for example, is likely to differ from one focusing on terrorism, weapons of mass destruction and inter-state power struggles. Sub-regional conflict prevention mechanisms may develop along quite different lines, as can be seen in comparisons between, for example, Southeast Europe, West Africa, South America and Southeast Asia.

Institutional Arrangements

Associated with the conceptualisation of the ‘fabric of peace’ is the institutional (and political) question of who does what. The Charter is quite clear on this. The principal actors in this respect are: the governments of Member States, the UN Security Council (and in some circumstances the General Assembly), and the ‘regional arrangements or agencies’. Each has a different role, and the role of regional organizations in response to armed conflict or threat thereof is more finely tuned than is generally appreciated.

Pacific settlement reflects a loose hierarchy of roles undertaken by these various parties. The Charter calls upon Member States to engage in pacific settlement by themselves in the first instance.²² In the event the Member States fail to settle a dispute by themselves, the Security Council may become involved through investigation,²³ referral,²⁴ and recommendations.²⁵

Regional organizations, for their part, are encouraged under Chapter VIII to be proactive and undertake pacific settlement before referring disputes to the Security Council. Article 52 implies that a mechanism for pacific settlement is a necessary feature of a regional agency. By implication, this applies also to sub-regional agencies.

Other inter-governmental organizations (trans-national or cross-regional)²⁶ may undertake pacific settlement efforts on their own initiative as well. This would be seen as measures undertaken on behalf of the United Nations under chapter VI.

²² Article 33

²³ Article 34

²⁴ Articles 35 & 37. The General Assembly may also become involved.

²⁵ Article 38

²⁶ The typology of inter-governmental organizations used here is as follows. Regional: Those that have an operational focus on a region and whose membership equates totally or near-totally with the region, with no external membership. Sub-regional: Those that have operational focus on a sub-region within a ‘parent region’, and whose membership equates totally or near-totally with the sub-region, with no external membership. Transnational: those with membership from all or many regions of the world but whose membership is confined to a selective criterion that precludes universality (political, religious, cultural). Cross-regional: those that have operational focus on one region but whose membership extends beyond the region.

Enforcement action is treated quite differently. The use of force is confined to two circumstances only:

The first is action by Member States in self-defence (only *ex post* notification to the Security Council is required).²⁷ The second is by organizations or Member States acting under the authorisation of the Security Council, under two situations determined by the Council (a threat to, or breach of, the peace including any act of aggression). Strictly, self-defence is not enforcement but rather a legitimate preliminary use of force until UN-authorized enforcement takes over.

Regional agencies undertaking enforcement must gain UNSC authorization.²⁸ An enforcement capacity is an optional feature of a regional agency – not all have this or aspire to.

2. Theoretical Responses to Armed Conflict: Global and Regional Differences

In the event that pacific settlement fails and armed conflict occurs, what is the response in terms of legitimate enforcement action?

An important if rather arcane distinction needs to be drawn between collective security and collective defence, because this carries implications for security at the regional and global levels. Collective security is conceptually designed to prevent or control state aggression among member states of a closed system, whether regional or global. Collective defence is designed to do the same in an open system, against a non-member state from outside the membership.

The distinction has implications for both organizational and doctrinal aspects of regionalism. Thus:

- Regional collective security pertains to controlling aggression from one's own membership of a regional organization; and global collective security pertains to controlling aggression from any nation-state of the international community, institutionalized through the United Nations.
- Regional collective defence pertains to deterring or controlling aggression from a non-regional state beyond one's own regional organizational membership. There is, however, no such thing as 'global collective defence' since the world is closed security system.

(a) Collective Security

Change and innovation in the methodology of peace in the UN era has come from *ad hoc* and pragmatic developments. The original response mechanism against inter-state aggression was planned as a collective security armed force operating on the basis of national contingents under UN command and flag. The United States, largely responsible for the concept, was ready in the mid-1940s with a major military

²⁷ Article 51

²⁸ Article 53

contribution.²⁹ Agreements were to be reached between the UN and Member States over the provision of national contingents.

The Korean crisis of the early 1950s represented the first, flawed, expression of collective security against inter-state aggression. But the global response to conflict there was due to the tactical absence of a major power from the Security Council, and subsequent Cold War vetoes undermined the efficacy of collective security as the central doctrinal strut of world order for four decades. The world retreated into regional collective defence structures for order and stability. During this period, inter-state aggression was prevented, not by collective security with conventional force, but by nuclear deterrence at both global and regional levels. The UN, with its Security Council relegated to the sidelines of strategic planning for global stability, acted as a forum and ratifier rather than legislator and executor of global policy.

(b) Peacekeeping

In such a situational context, the UN metamorphosed into a global agent of peace rather than of order as originally intended – nurse and social-worker rather than policeman and judge. No further thought was given to concluding ‘article 43 agreements’ for military contributions. In its stead the UN developed in the 1950s, through middle-power innovation and personal vision, an entirely new conceptual role for itself that reflected its ‘softer’ and marginalised function – peacekeeping.

As a pragmatic innovation unforeseen by the planners of post-war order, peacekeeping has never fitted easily into the UN Charter. It was famously characterised early on by Hammarskjöld as ‘chapter six-and-a-half’ – that is to say, beyond pacific settlement but short of enforcement. Traditional peacekeeping responded to the prevailing threat perception and security situation of the time, namely inter-state aggression. Once hostilities ceased through negotiation and a ceasefire was declared, the separation of belligerent forces was governed by the UN peacekeepers comprising the ‘thin blue line’. The peacekeepers were lightly armed and mandated to use force only in self-defence – observers and monitors of policy rather than its makers and executors.³⁰

This is not to say, however, that the UN had been rendered redundant in the maintenance of peace and security. While the UN had been rendered ineffectual in enforcement, it had from the outset been active in conflict prevention. The use of the Secretary-General’s good offices, under article [95], in mediation, was well-received from the late 1940s (Greece/Turkey) through the ‘50s (American airmen hostages in China) the ‘60s (Cuban missile crisis;) ‘70s (Vietnam); and 80s (Lebanon; Iran-Iraq war).

Conflict prevention was given renewed attention and higher profile in the post-Cold War environment of the early 1990s. As the global enforcement mechanism

²⁹ The US spoke of contributing, under article 43, twenty divisions (300,000 troops), 1,250 bombers, 2,250 fighters and a large naval force. (See Urquhart, Brian, ‘The UN’s Capacity for Peace Enforcement, <http://www.iisd.org/security/unac/urqudoc.htm>).

³⁰ An exception to this was the UN’s force in the Congo in the mid-1960s, a controversial adventure by Hammarskjöld into ‘robust peacekeeping’ that was to prove premature as a generic security concept, but a harbinger of operational policy three decades later.

transmogrified from bipolar deterrence to unipolar hegemony, hope was renewed that the UN would be freed from Cold War paralysis to become more active in both conflict prevention and enforcement.

(c) The Unacknowledged Revolutions: Security Council Summit (1992) and 'Agenda for Peace'

The first and seminal Security Council summit of January 1992 laid down, without fanfare or due attention, much of the basis of the post-Cold-War order.³¹ The ending of *apartheid* and the expulsion of Iraq from Kuwait had reinvigorated the United Nations. The Council welcomed the role the UN had been able to play, under the Charter, in progress towards settling long-standing regional disputes, and would work for further progress towards their resolution. The tasks of peacekeeping, the Council noted, had broadened. Election monitoring, human rights verification, and refugee repatriation had, in the settlement of some regional conflicts, been integral to Council efforts to maintain peace and security. Council members reaffirmed their commitment to the collective security system of the UN Charter to deal with threats to the peace and reverse acts of aggression.

To further strengthen the collective security system at such a time of opportunity, the Council invited the Secretary-General to submit recommendations on ways to strengthen and make more efficient the capacity of the United Nations for preventive diplomacy, peacemaking and peacekeeping. These were to cover the role of the UN in identifying potential crises and areas of instability, as well as the contribution to be made by regional organizations in accordance with Chapter VIII of the UN Charter in helping the work of the Council.³²

The Council also addressed the other two issues of principal concern to regional and global stability: terrorism and WMD proliferation. It expressed its deep concern over acts of international terrorism and emphasized the need for the international community to deal effectively with such acts. And, in a move with far-reaching implications, the Council determined that the proliferation of weapons of mass destruction 'constituted a threat to international peace and security'.

This last determination was unprecedented, being the first time the Council had identified a hypothetical generic event as a threat to the peace, rather than an actual and specific event such as territorially-confined conflict, as originally envisaged by the framers of the Charter.. In taking this action, the Council thereby empowered itself to engage in enforcement action on its judgement in the event a non-P-5 State moved to acquire nuclear, chemical or biological weapons. Empowering itself for the first time proactively rather than reactively and generically rather than specifically, the Council signalled an intent to evolve e into a prototype body of global governance rather than remain a narrowly-focused instrument simply to combat inter-state aggression.

This development has received remarkably little attention, primarily for the reason that subsequent events (Somalia, Rwanda) skewed the international political situation

³¹ S/23500, 31 January 1992

³² Ibid

away from the positive potential of the Security Council and onto its practical shortcomings in an atmosphere of frustration, failure, shame and recrimination. Yet although these headline tragedies shifted the spotlight away from the theoretical powers of the Council, this revolutionary development remains unrevoked. It raises issues of fundamental import – pertaining to the ‘right’ of self-empowerment by the Council on the basis of its own judgement, without any review mechanism, judicial or political. .

In this remarkable assertion of policy, the international community commenced the journey from regarding the UN Security Council as a traditional instrument of 20th statecraft for war-avoidance to a prototype mechanism of global governance. Since that date (January 1992) the Council, emboldened by the acquiescence of the global community in its growing assertiveness of policy, has taken it upon itself to declare as a ‘threat to the peace’ a variety of global and regional problems that were beyond the natural political imagination of the framers of the UN Charter.³³

Such a novel construct of global governance was accorded a theoretical dimension in the form of the Secretary-General’s *Agenda for Peace*, although his innovative proposals were designed more to revive some of the Charter’s original intentions for collective security rather than buttress the Council’s newly-acquired powers. The *Agenda*, produced in 1992 in response to the Council Summit’s request, proposed some far-reaching innovations in conflict prevention, peacekeeping and enforcement. Specifically it developed some conceptual distinctions that had hitherto been lacking, between ‘classical’ peacekeeping and two kinds of enforcement – peace enforcement and collective security enforcement against aggression.

Peacekeeping is now seen as of two kinds: ‘traditional’ and ‘modern’. They are distinguished by two characteristics pertaining to a mission’s mandate: breadth and strength. That is to say: whether its mandate is narrowly-focused on ceasefire verification alone or encompasses a broad range of post-conflict activities; and whether it constrains the use of force to self-defence only or allows force to be used, on the mission’s initiative, to ‘enforce an end to hostilities’.³⁴

‘Traditional’ peacekeeping pertains to the verification of mutually-agreed ceasefires following a truce and with the consent of the belligerent parties. Force is to be used only in self-defence. It is intended essentially as a tool for conflict containment – creating space for further negotiations even at the cost occasionally of freezing the conflict for a considerable period.

‘Modern peacekeeping’ – involving missions that have been deployed in the post-Cold War era – differs from its traditional counterpart in two ways. First, such missions are ‘multidimensional’ in that their mandates extend beyond ceasefire verification to encompass a broad range of post-conflict activities, viz. disarmament; demobilisation; repatriation and rehabilitation; police and armed forces training;

³³ The Council has proceeded since then to frame other generic threats (terrorism, 2001; implications of global health pandemics, 2001). It has also begun to focus on individuals, hitherto not subjects of international law (arrest warrants for Somalia warlords, 1994; Al Qaida operatives, 1999) and to direct state behaviour on domestic issues (threats of sanctions against Syria for non-cooperation over assassination investigations, 2005).

³⁴ See http://www.un.org/Depts/dpa/prev_dip/fr_peacemaking.htm for a definition of ‘peace enforcement’.

humanitarian delivery assistance; civilian protection; human rights promotion; electoral assistance; and judicial reform.³⁵ Secondly, some of these missions are ‘robust’ in that they are given an enforcement mandate to use force beyond strict self-defence (the ‘all necessary means’ formula used in the Security Council resolutions).³⁶ These mandates characterise missions that are implementing final, comprehensive peace agreements. Such missions are deployed into unstable and insecure environments, which can occur even in post-agreement situations. The ‘robust’ enforcement mandates are required to enforce the agreement against ‘minor order challenges’ such as those mounted by spoilers, bandits, loosely commanded forces or splinter movements.

Some ‘multidimensional missions’ may lack a military component but perform their tasks alongside a regional or multinational force. Many, however, are given a military component with a ‘robust mandate’ to ensure, on their own resources, that their primary tasks are not thwarted. These latter missions therefore fall within the conceptual category of ‘peace enforcement’. That is to say, some peacekeeping missions have a peace enforcement dimension. To this extent the two concepts of peacekeeping and peace enforcement overlap.

It is generally assumed that fine distinctions of this kind are unnecessary for operational purposes. But the distinction is important for constitutional reasons in distinguishing between global and regional responses to armed conflict. If ‘traditional peacekeeping’ is seen as part of chapter VI of the Charter (‘chapter six-and-a-half’), then it is part of pacific settlement, and regional agencies are free to undertake such missions on their own initiative under article 52 without Security Council authorization. A ‘peace enforcement’ mission, however, using ‘all necessary means’, is authorized under chapter VII. A regional agency undertaking such enforcement action, therefore, requires advance authorisation of the Council under article 53. This is explored further in section 7.3.

‘Peace enforcement’, a product of post-Cold War thinking, is conceptually complex and politically controversial.³⁷ It is to be seen as a tool for governing and implementing a peace agreement. The UN is currently not well-equipped to take on the global challenge of forcing a major party to a conflict that has not yet done so to sign up to a peace agreement. In fact, a robust peace-enforcement operation should be reconsidered in the event a major party to a conflict that had signed up to a peace agreement (as opposed to a minor spoiler) subsequently withdraws from the peace process.

Reflecting the optimism and the sense of urgency of the early 1990s, the proposal advanced by the Secretary-General was that ‘peace enforcement’ would fill the void

³⁵ Handbook on UN Multidimensional Peacekeeping Operations (Peacekeeping Best Practices Unit, DPKO, December 2003) p. 1.

³⁶ See UNDPKO website: ‘The Power of Persuasion Backed by Force’
<http://www.un.org/DPETS/dpko/dpko/intro.3.htm>

³⁷ “Peace enforcement is a relatively new concept which precariously lies in the grey area between the logic of peace and the logic of war. Despite the lack of a well-established peace enforcement doctrine, the international community has increasingly turned to peace enforcement as a mode of intervention in its efforts to maintain world peace and security in the post-Cold War environment. As a consequence, this operation is inherently complex, misunderstood, difficult to manage, and often highly controversial.” Major Robert D. Allen, ‘Lessons from Somalia: The Dilemma of Peace Enforcement’, Global Security CSC Paper (1997)
<http://www.globalsecurity.org/military/library/report/1997/Allen.htm>

that existed between pacific settlement activities (under chapter VI) and inter-state collective security measures (under chapter VII). Collective security was envisaged, in 1945, as a heavy military response by national armies against inter-state aggression – the full and final application of force. Peace enforcement was envisaged, in 1992, as the more controlled response to national (intra-state) or regional (cross-border) emergencies – the judicious application of lighter military force against ‘threats of a lesser order’. Collective security was envisaged under article 42 (military action); ‘peace enforcement’ under article 40 (provisional measures). The latter, however, would still come under chapter VII, involving the use of force and requiring a determination by the Security Council of a threat to peace, triggering its binding powers.

The concept is, however, fraught with difficulties. The present operational concept of ‘peace enforcement’ should be distinguished from the 1992 vision of UN ‘peace enforcement units’. The idea in *Agenda for Peace* was that ‘peace-enforcement units’ would be under UN command, made available from Member States on a volunteer basis, highly-trained and more heavily-armed than peace-keeping forces. As such they would fulfil a function that had hitherto been lacking. The idea gained immediate positive attention when first advanced.³⁸

(d) Retreat from Revolution: The Supplement to the Agenda, 1995

No such units materialised, however, and as noted, the negative experiences with ‘peace-enforcement’ using traditional national military contingents in Bosnia-Herzegovina and Somalia soured the concept. These setbacks prompted a policy reversal by the United States from support for, to antipathy towards, UN peace enforcement.³⁹ By January 1995 the *Supplement to Agenda for Peace* had signalled a clear retreat from the ambitious concept of ‘peace enforcement units’. Since then, UN operations have continued to receive peace enforcement mandates from the Security Council under chapter VII but they have been implemented by means of the same operational arrangements as before – national contingents made available on a voluntary basis by troop contributing countries.

Effort has been invested, however, to streamline this practice. In 1994 a UN Stand-By Arrangement System (UNSAS) was established in which Member States would make conditional pledges to contribute specific resources for UN peacekeeping within agreed response times. By July 2003 some 81 States were participating of which 43 had signed MOUs pledging contributions. UNSAS has been useful in planning for

³⁸ “It is essential to give the necessary authority and strength to the Security Council to deal with [crisis] situations more effectively in the future. The capacity to deploy credible and effective peace enforcement units, at short notice and at an early stage in a crisis, and with the strength and moral support of the world community behind them, would be a major step in this direction. Clearly, a timely intervention by a relatively small but highly trained force, willing and able to take combat risks and representing the will of the international community, could make a decisive difference in the early stages of a crisis.” Sir Brian Urquhart, ‘The United Nations’ Capacity for Peace Enforcement’, Address, International Institute for Sustainable Development, Winnipeg, May 1994, <http://www.iisd.org/security/unac/urqudoc.htm>

³⁹ US Presidential Decision Directive PDD-13, would have committed large numbers of US combat forces to UN command as part of the early Clintonian policy of ‘assertive multilateralism’. Following Somalia, and just as Rwanda was breaking, PDD-25 reversed that approach, requiring instead stringent criteria for any US involvement in UN operations and a clear exit strategy. Since then the US has effectively eschewed UN peace operations as the best means of maintaining international security, preferring coalitions or unilateral action.

over 14 peace operations.⁴⁰ Within UNSAS, fourteen countries established SHIRBRIG in 1996, a co-ordinated arrangement for the rapid deployment of an integrated brigade. SHIRBRIG was deployed as a precursor for UNMEE in the Eritrea-Ethiopia conflict in 2000. Both UNSAS and SHIRBRIG, however, are restricted to ‘classical peacekeeping’ operations, not as yet for ‘peace-enforcement’ operations.

Thus the trend in recent years has been away from reliance on UN-commanded peace enforcement operations in favour of ‘hybrid’ operations’ in which the UN and other international organizations co-operate in various ways over the same mission. These have been identified as comprising four kinds:⁴¹ *Integrated* missions have the UN and others operating within a single chain of command. *Co-ordinated* missions have the UN and others operating side-by-side. *Parallel* missions have the UN deploying alongside another organization’s force. And *sequential* missions have the UN preceding or following a multinational, regional or bilateral force.

Separate from UN peace enforcement missions are military operations authorised by the UN to use force (‘all necessary means’) to achieve a stated objective without the necessary consent of the parties to a conflict. Such actions, although endorsed by the Security Council, are entirely under the control of the participating States and not under UN command. They are therefore distinctly different from UN peacekeeping operations. These operations, however, usually act as precursors to subsequent UN peacekeeping missions, and may parallel them (as described in ‘b’ above), providing the ‘hard security’ protection for a ‘soft’ UN mission.

All of the above operations – UN and multinational – are focused on what are now termed ‘complex emergencies’, national and regional. These are distinct from the traditional inter-state conflicts of the kind that precede the UN and for which the UN was fundamentally designed to handle. Apart from the distinguishing characteristics of the two kinds of conflicts, the Security Council perceives the complex emergencies to constitute a ‘threat to peace’ under the Charter whereas it perceives inter-state conflict to comprise either ‘aggression’ or a ‘breach of the peace’. Military operations authorised by the Security Council to respond to aggression or breaches of the peace are infrequent – only two such operations have been undertaken (against North Korea in 1950 and Iraq in 1990).

The question of the international community’s capability to respond to inter-state aggression through collective security arrangements has always been uncertain. The Charter envisaged ‘article 43 agreements’ in which Member States would enter a binding commitment to make available their designated armed forces which the Security Council could rely upon. Because such agreements were never concluded, the Council can only rely upon voluntary commitments.

In the early 1990s when hopes were high for a reinvigoration of the UN’s collective security system, an attempt was made to rectify this. Under ‘*Agenda for Peace*’ the

⁴⁰ Progress Report of the Secretary-General on Stand-By Arrangements for Peacekeeping, S/2000/194, 8 March 2000, para. 14

⁴¹ Jones, ‘Evolving Models’. The author, acting as consultant to the UN’s DPKO, suggests, however, that the categorization obscures more than it reveals since in some cases the differences between missions within a category are wide. The differentiation is useful for political labelling, less so for functional analysis.

Secretary-General called for agreements to be concluded by Member States with the UN, as originally envisaged in Article 43, to make available ‘on call’ national armed forces for immediate response to ‘outright aggression, actual or imminent’ authorized by the Security Council under Article 42. This call also went unheeded. In lieu thereof, as noted, the practice has arisen of Member States pledging contributions to peacekeeping stand-by forces, involving light infantry, helicopter and personnel carriers. Once the ambitious proposals of ‘Agenda for Peace’ were nullified by the US policy change of 1994, no serious thought was thereafter given to national contingents of armed forces for collective security as originally envisaged by the framers of the Charter.⁴²

(e) Developments of the Past Decade (1996-2005)

Since the 1995 *Supplement*, the UN has pursued a less ambitious, more practical course in strengthening its response capacity to armed conflict. Two reports in particular advanced this goal – the Brahimi Report of 2000 and the Secretary-General’s Report on the Prevention of Armed Conflict of 2001. The Brahimi Report called for stronger and clearer mandates for ‘robust peacekeeping’, better training and equipment and financing of missions, and above all a renewal of political will to stay the course on the part of Member States. The Secretary-General’s Report built on this and took it a step further. One of its 29 recommendations concerned the role of regional organizations in conflict prevention. The Secretary-General recalled the series of high-level meetings he had convened with regional organizations since 1994 and urged Member States to implement the conclusions reached on conflict prevention and peace-building.⁴³

During the same decade, however, the global threat perception itself became an issue of contention. The hitherto dominant Western influence over what threatened the international order and what was required to respond became subject to increasing challenge. Firstly, notions of ‘soft security’ ranged alongside those of traditional ‘hard security’. The more uniform input of all constituent parts of the international community into global policy-making ensured greater concern than hitherto for poverty alleviation, sustainable development and related socio-economic advancement as component parts of ‘human security’, captured in the Ogata-Sen Report of 2004. This increasingly sophisticated approach to conflict prevention needed to factor such broader notions of security into the doctrinal and institutional changes at the UN and in regional organizations.

Secondly, the dominant threat perception of ‘hard security’ mutated a second time, from intra-state instability to terrorism. Although the terrorist phenomenon has been felt by many societies, it was the United States that suffered perhaps the most dramatic terrorist action (in September 2001), which responded the most forcefully with military force (in Afghanistan) and which continues to feel the most vulnerable in ways wholly novel to its citizenry. The US-proclaimed ‘war on terror’, however, draws varying coalitions of the willing and the reluctant into a military operation against not a cause but a tactic. Operating in part *ultra vires* the Charter, such

⁴² This is a far cry from the original attitudes of 1945, when the US estimated its military contribution under article 43 at twenty divisions (300,000 troops), 1,250 bombers, 2,250 fighters and a large naval force. (See Urquhart, Brian, ‘The UN’s Capacity for Peace Enforcement’, <http://www.iisd.org/security/unac/urqudoc.htm>)

⁴³ Prevention of Armed Conflict: Report of the Secretary-General, A/55/985, 7 June 2001

operations lack political authenticity and multilateral legitimacy; some are patently illegal. The notion of conflict prevention against private groups determined to wreak havoc on establishment thinking and hardware through terrorist actions against civilians raises entirely new issues to think through – in particular whether the root causes of terrorism should attract equal attention to response measures, and whether such response measures should be prosecuted as a global police action or an international military operation. When it was first seized of the terrorist issue in the early 1970s, the UN General Assembly emphasized the need to investigate the causes of terrorism.

3. The Constitutional Basis for Regional Response to Armed Conflict

Historically, the prototype security architecture of the Westphalian era of sovereign nation-states took the form of regional security arrangements through the Concert of Europe and the Monroe Doctrine in the Americas. Both arrangements were centred on the concept of collective security – the banding together of all for one in defence against aggression.

Differences were, however, discernible between the two. The Concert sought an internal regional security arrangement through a dynamic balance of power based on shifting alliances. The Monroe Doctrine was an external regional defence arrangement designed principally to deter one region (Europe) from any continuing predation on another (America) – regional collective defence rather than regional collective security.

Each arrangement proved to be a precursor to twentieth century global collective security – a somewhat ironic development since President Wilson had consciously sought to translate the American experience (collective defence) onto the world stage.

In the UN era of the past 60 years, the nature of the security challenge has changed and with it the design of the security architecture to deal with it. That metamorphosis is apparent in the different structures and roles of regional organizations whose ages delineate the trend in security perceptions and thinking. Thus:

- The older organizations of the 1940s (LAS, 1945; OAS, 1948)⁴⁴ combined both collective security and collective defence in an age when inter-state aggression was the principal threat perception immediately after the two world wars.⁴⁵
- The ‘cross-regional’ organizations of the 1950s (NATO, 1949; ANZUS, 1951; SEATO, 1954; Warsaw Pact 1955; CENTO, 1959) were created solely for the purposes of regional collective defence against inter-state aggression during the Cold War.
- The younger regional organizations (OAU/AU, 1964/2002; ASEAN, 1967; PIF, 1971) and cross-regional organizations (CSCE/OSCE, 1975/1992) of the 1960s and ‘70s focused on inter-sectoral regional cooperation to promote

⁴⁴ For meaning of all acronyms, see end of chapter.

⁴⁵ Just as the UN Charter was consciously designed to prevent a third experience of inter-state aggression.

stability in an age when security problems derived from complex national and regional emergencies rather than simple inter-state aggression.

- The latest generation of regional (CIS, 1991) and cross-regional organizations (SCO, 2001; CSTO, 2003) reflect contemporary security perceptions by focusing principally on terrorism and trans-national crime.

Standing separately from this complex mosaic are the two European organizations, the COE (1948) and the EU (1957/1992). The former is a regional organization of 46 European countries that focuses on the promotion of societal stability through the rule of law and human rights. The latter is a sub-regional organization which, alone around the world, originally sought integration of its Members States' economies and now contemplates political union of some indeterminate kind.

One of the main challenges in analysing the regional response to armed conflict is to determine the extent to which a regional organization has acquired a constitutional authority, and developed an operational mechanism, for conflict prevention and peacekeeping. These are identified in the Table 2 below.

Table 2
'Chapter VIII Executive Functions'

Executive Function	Yes		No
	<i>Agency</i>	<i>Statutory Reference</i>	<i>Agency</i>
Internal dispute settlement §52	AU	AU-PSP, art. 7.1 (a & b)	COE
	OAS	OAS Charter, arts. 24-27	EU
	CIS	CIS Charter, art. 17	SAARC
	ASEAN	ASEAN-TAC, arts. 13-17	
	LAS	LAS Charter, art. V	
	PIF	Rarotonga Decl. paras. 7-14	
Internal enforcement §53	AU	AU-PSP, art. 7.1 (e)	ASEAN
	OAS	OAS Charter, arts. 28-29	COE
	CIS	CIS Charter, art. 18	EU
	LAS	LAS Charter, art. VI	SAARC
	PIF	Biketawa Decl. paras. 1-2	
External self-defence §51	AU	AU-Const. Act, para 4 (d)	COE
	OAS	OAS Charter, arts. 28-29	EU
	CIS/CSTO	CIS Charter, art. 12	SAARC
	LAS	LAS Charter, art. VI	ASEAN
			PIF

4. The Historical Experience of Regional Response to Armed Conflict

The historical experience of regional response to armed conflict can be analysed in two contexts: the operational experience of regional organizations in the field and the efforts at forging an operational partnership with the United Nations.

(a) Operational Experience

The record to date of regional and sub-regional agencies in peacekeeping and peace-enforcement is shown in Table 3.

Table 3
Executive Roles of ‘Regional & Sub-Regional Agencies’ to Date*

Organization	Peacekeeping	Peace-Enforcement**	Collective Security
OAU/AU	Chad 1981 Burundi 2003	Sudan 2004	
ECOWAS		Lebanon 1990 Sierra Leone 1997	
SADC	Lesotho 1998		
IGAD			
LAS	Lebanon 1983		
COE***			
EU	Macedonia 2003	DR Congo 2003	
CIS	Georgia 1994 Tajikistan 1994		

SAARC	n.a.	n.a.	n.a.
ASEAN	n.a.	n.a.	n.a.
PIF		Solomon Is. 2004	
OAS		Dominican Rep. 1965	Cuba**** 1962
OECS		Grenada 1983	

* The roles identified above include peacekeeping (under chapter VI) and peace-enforcement and collective security (under chapter VII); but exclude the peacemaking role (under chapter VI).

** Peace enforcement requires permission to use ‘all necessary means’ to achieve mission objectives granted by the Security Council acting under chapter VII.

*** COE, SAARC and ASEAN have to date undertaken no executive actions of any kind. In the first two cases, this is statutorily excluded.

**** During the Cuban crisis, the OAS resolved to take measures, individually and collectively, ‘including the use of armed force’, to ensure that the Cuban Government could not continue to receive military material from the Sino-Soviet powers.

(b) Construction of UN-RO Partnership

Since the mid-1990s the United Nations has taken the initiative in developing a partnership with regional organizations in the maintenance of international peace and security. The Secretary-General has convened six high-level meetings with regional sub-regional and other intergovernmental organizations with a view to building what might be called a ‘regional-global security mechanism.’⁴⁶

These meetings have resulted in a series of broad guidelines for operational measures in conflict prevention and peace-building. In recent years, the work surrounding the 5th HLM (July 2003) and 6th HLM (July 2005) has intensified. Meetings are henceforth to be regional, supported by an inter-sessional Standing Committee and served by a number of working groups.

Also in the past few years the Security Council has undertaken initiatives in strengthening the partnership. It has now held three meetings with regional and other organizations (April 2003; July 2004; October 2005), the most recent of which adopted a Council resolution on the UN-RO relationship for the first time. The Council expressed its determination to take appropriate steps to the further the development of cooperation with regional and sub-regional organizations in maintaining international peace and security consistent with Chapter VIII of the Charter. It stressed the importance for the UN of developing the ability of regional and sub-regional organizations in pacific settlement and also their ability to deploy peacekeeping forces in support of UN operations or other Security Council-mandated operations. And the Council invited the Secretary-General to submit a report on the opportunities and challenges facing the cooperation between the UN and regional and

⁴⁶ “I believe we can develop a new vision of global security. A vision that respects human rights while confronting the threats of our age, including the threat of terrorism. A vision that draws upon the resources and legitimacy of a network of effective and mutually reinforcing multilateral mechanisms – regional and global – that are flexible and responsive to our rapidly changing and integrating world.” H. E. Kofi Annan, Secretary-General of the United Nations, Opening Address to the 5th UN-RO High-Level Meeting, July 2003.

sub-regional organizations in maintaining international peace and security.⁴⁷ Thus the stage is now set for the operational partnership between the UN and RO/SROs to be realised.

This new focus on a UN-RO partnership has been given some prominence by the high-level process leading up to the World summit of September 2005. The 2004 UN High-Level Panel noted the important role the regional organizations had to play in international peace and security and called for more formalized agreements between them and the UN. In his report *In Larger Freedom* of March 2005, the Secretary-General declared his intention to conclude a series of memoranda of understanding with partner organizations. This was noted and endorsed by the World Summit.

5. The Latent Potential of Regionalism for Responding to Armed Conflict

Despite these significant developments the partnership between regional organizations and the UN in building a response to armed conflict remains stronger in the potentiality than actuality. The relationship remains in the declaratory rather than the substantive operational stage, although there are signs that it is on the cusp of transforming from one to the other. What is required to realize this?

First it should be possible to identify those organizations that are ‘regional’ in nature in the sense of their membership covering a clearly-defined jurisdictional area – a ‘security region’ – and sub-regions within it. These organizations could be accepted as regional and sub-regional agencies ‘within the meaning of Chapter VIII’ to cite the terminology employed by the UN’s High-Level Panel of 2004.

Beyond this group, all other ‘partner organizations’ could be seen as cooperating with the UN under other provisions of the Charter – Chapter VI in pacific settlement, Chapter VII in enforcement, and Chapter IX in peace-building. In contrast to ‘Chapter VIII regional organizations’, these other bodies (cross-regional, transnational organizations) would be free to act, on behalf of the UN, ‘out-of-area’, as indeed two organizations (NATO, EU) currently do. This could include, in the future, the CSTO and the SCO.

Who gets to decide which organizations might be ‘regional’ under Chapter VIII? This in itself is not clear and the Charter is silent on the matter. The potential indicators for such decision-making are also ambivalent. Some regional organizations are official observers at the UN General Assembly but not all; and not all observers are regional organizations. The Security Council has on occasion referred to ‘regional organizations’ in calling for assistance in the maintenance of peace and security, but not often and not consistently. The Secretary-General has extended invitations to the high-level meetings to organizations that have developed a partnership relationship with the UN in peace and security. But the range of bodies invited is all-encompassing; some of the twenty organizations that turn up are palpably not ‘regional’ and a few freely declare themselves not to be part of Chapter VIII.

⁴⁷ S/RES/1631 (2005), 17 October 2005

A fourth way of identifying ‘regional organizations’ is self-proclamation. The OAS states in its statute that it is an agency under Chapter VIII. The OSCE declared in 1992 (then as the CSCE) its understanding that it was a ‘regional arrangement in the sense of Chapter VIII’. The General Assembly welcomed this understanding without according it any official imprimatur.

Others have signaled a similar self-perception. In 2002, for example, the LAS adopted a resolution on the Iraq crisis, ‘acting in accordance with article 54 of the [UN] Charter’, and conveyed it to the Security Council.

The danger of self-proclamation is its scope for abuse – without some objective criteria and judgement, any entity could, as it were, ‘gain entry’.

(a) Relating Global and Regional Responses to Armed Conflict: A UN-RO Partnership

The ‘Chapter VIII regional organizations’, once identified, could develop an operational partnership with the Security Council. They could perform both institutional and executive functions within that context. Institutional functions could include both representational and reporting action. A representational action would mean that each organization would represent its region on the Council (through the Member States elected onto the Council at any one time). It would also be responsible for reporting to the Council on the security situation within its region – both through its ‘representative Member States’ (by right) or by the organization’s head (by invitation).

The executive function would include a mechanism for regional pacific settlement in each case, under article 52 of the Charter. Under this provision regional organizations (and their Member States) are empowered to take initiatives in this respect, and the Security Council is authorized to encourage such initiatives.

In contrast an enforcement function is optional under article 53 – as noted earlier, no regional organization is obliged to develop such a capacity.

(b) Implications for UN Reform

The recent failure of the international community to agree on an expansion of the Security Council is taken, not for the first time, as a serious setback to progress in UN reform. The need for greater legitimacy of the Council through more representative membership, as well as more transparency and accountability and improved decision-making procedures, is widely recognized. National rivalries assigned the aspirations of permanent membership by the G-4⁴⁸ to failure. Political tensions ran high during the diplomatic swordplay over Security Council composition in 2005.

This will recur every time the issue of Council expansion is re-opened on the basis of national membership. The self-evident political insight regarding the Security Council

⁴⁸ The Group of Four (Germany, Japan, India and Brazil), seeking permanent membership of the Security Council, circulated a draft UNGA resolution in July 2005. This was quickly followed by a ‘United for Consensus’ draft by the so-called Coffee Club composed of the ‘second-tier rivals’ – notably Italy, Pakistan and Argentina – with China also opposing Japan.

is that the future legitimacy of the body, which rests on a broader and more equitable representation, can be achieved only through some form of regional institutional representation of an inclusive nature rather than national rivalry that ensures the exclusion of many. It will be misguided to undertake any further attempt at Council enlargement on the basis of permanent national membership.

Once the political dust settles from the failed 2005 attempt, consideration should be given to a different approach to the goal of an enlarged Security Council – through regionalism. An expanded Council of 24 or 25 States could be elected entirely through a regional electoral framework that would replace the current obsolete electoral groupings that are a relic of the Cold War. Such a framework could include the five existing permanent Council Member States.

The framework could be based on the regional organizations that currently cooperate with the UN. Sub-Saharan Africa could be represented through the African Union (AU). The Arab world, geographically comprising North Africa-West Asia, could be represented through the Arab League (LAS). Europe could be represented through the Council of Europe (COE). Caucasia-Central Asia (including Russia) could be represented through the Commonwealth of Independent States (CIS). South Asia could be represented by the South Asian Association for Regional Cooperation (SAARC).⁴⁹ Southeast Asia could be represented by the Association of Southeast Asian Nations (ASEAN). The Pacific could be represented by the Pacific Islands Forum (PIF). And the Americas (including the US) could be represented by the Organization of American States (OAS).

One region, East Asia, would remain unrepresented at present, since no regional organization exists for this. If the above regional mosaic were to be fully developed, an organization would need to be created by East Asian States – China, the Koreas, Japan and Mongolia. Given the tensions in the area this would not prove easy, yet other regions (Africa, Europe, South Asia) have successfully created and developed regional organizations despite, indeed because of, regional tensions and the need for regional crisis management.

The number of seats on a Council of 25 could be allocated in a way that ensures more democratic legitimacy to the Council. Africa could be allocated four seats, the Arab world two seats, Europe three, Caucasia-Central Asia two, South Asia four, East Asia three, Southeast Asia two, the Pacific one, and the Americas four seats. The ‘regional spread’ of such an arrangement would be considerably more equitable in terms of both population per Council seat and number of regional States per Council seat.⁵⁰

The five permanent Council members could continuously retain one seat in their relevant groups – Europe (France, UK), Caucasia-Central Asia (Russia), East Asia (China) and America (US). The other twenty seats would be allocated across the

⁴⁹ If SAARC were to act as an executive agent for the Security Council, it would need to create a pacific settlement mechanism which is currently excluded under its Statute. But there is nothing to prevent SAARC from operating as an electoral grouping at the UN.

⁵⁰ See, for detailed exploration of such a regional electoral framework, a UNU-CRIS study, *Regional Governance and Global Security: A Study of Interaction between Regional Organizations and the UN Security Council*, K. Graham & T. Felicio, September 2004 (book forthcoming).

groups as identified above. Scope would exist for the G-4 permanent aspirants to be re-elected in their relevant group as often as the group judged appropriate.

This would fall short of the current aspirations of the Group of Four, and some time would need to pass before wounded national pride subsides in a few cases. But there is no way out of the stalemate if an expanded Council continues to mix new permanent membership with national competition.

The above regional approach contains certain shortcomings, but this or some variant on the theme is likely ultimately to prove to be the only viable and universally-acceptable way of reforming the representational shortcomings of the Security Council in the 21st century.

As the UN emerges from its current woes and proceeds with administrative and structural reform, new and vigorous leadership over the next decade should give impetus to some qualitatively new approach to the question of Council expansion.

(c) An Invitation by the UN Secretary-General?

The need now exists to clarify the basis of the developing partnership between regional organizations and the United Nations in peace and security. This includes the need to identify which organizations operate ‘for the purposes of Chapter VIII of the UN Charter’, to quote the UN High-Level Panel. It will be incumbent on the United Nations, through the Secretary-General, to take the initiative.

Criteria may need to be developed for determining which organizations are ‘Chapter VIII regional organizations’ and which operate under other chapters and provisions of the Charter. Such criteria could include the following:

1. A clearly-defined territorial area that responds to the normal meaning of a ‘region’;
2. A basic document of a legal nature on which the regional organization was founded or re-established;
3. An organizational structure – including a permanent secretariat;
4. A formal pacific settlement mechanism, comprised of both legally binding instrument and an executive decision-making capacity;
5. A territorial focus for all its executive functions for peace and security within the jurisdictional zone delimited by its membership;
6. A declaration of intent to cooperate, with the United Nations in conflict prevention (and, optionally, peacekeeping).

On the basis of these criteria, the UN Secretary-General could take the initiative to identify regional and sub-regional organizations suitable to such a partnership, inviting them to declare themselves to be organizations for the purposes of Chapter VIII of the Charter. The formal recognition of such a status would be accorded by the Secretary-General. A group of eminent persons could act as an advisory panel to the SG for determining which would be so formally designated. Such a process could avoid any embarrassment by preliminary negotiation in advance of self-declarations by the serious organizations.

At a subsequent stage, the Security Council could, for its own part, consider developing a similar relationship with such Chapter VIII organizations.

What is the point of developing the distinction between Chapter VIII and other chapters of the Charter? Because of the need to respond to the original vision of the framers that envisaged a separate and close partnership between true regional organizations and the UN. And in a related way, because of the need to proceed beyond the normal rhetoric of ‘comparative advantage’ and ‘complementarity’ and to translate that into operational ‘default mode’ for reporting to the Security Council on conflict prevention. Enforcement would remain with the Security Council which retains sole authority to authorize such action by any organization – whether regional, cross-regional or trans-national.

Such a framework would refine the operational mechanism most appropriate for each specific UN-RO relationship that accurately reflects the different threat perceptions held by each regional organization.

(d) Conclusions

The relationship between the global and the regional responses to armed conflict remains somewhat invertebrate but full of potential. The present confusion over which organizations are regional and which are other intergovernmental organizations needs to be clarified. The regions themselves remain at different stages of institutional development and of different political perceptions and persuasions, and this must be respected. But it is nonetheless possible for a broad framework to be developed that could lend structure to the development of an operational partnership for conflict prevention, peacekeeping, and indeed enforcement and peace-building, over the next decade.

Acronyms

AU	African Union
OAU	Organization of African Unity
ECOWAS	Economic Community of West African States
ECCAS	Economic Community of Central African States
SADC	Southern African Development Community
IGAD	International Governmental Development Authority
LAS	League of Arab States
COE	Council of Europe
EU	European Union
OSCE	Organization for Security and Cooperation in Europe
CIS	Commonwealth of Independent States
CSTO	Collective Security Organization
SCO	Shanghai Cooperation Council
SAARC	South Asian Association for Regional Cooperation
ASEAN	Association of Southeast Asian Nations
PIF	Pacific Islands Forum
OAS	Organization of American States
OECS	Organization of East Caribbean States
NATO	North Atlantic Treaty Organization
CENTO	Central Treaty Organization
SEATO	Southeast Asian Treaty Organization
ANZUS	Australia-New Zealand United States Defence Arrangement